



Registrar

National Electric Power Regulatory Authority Islamic Republic of Pakistan

NEPRA Tower, Attaturk Avenue (East), G-5/1, Islamabad
Ph: +92-51-9206500, Fax: +92-51-2600026
Web: www.nepra.org.pk, E-mail: registrar@nepra.org.pk

No. NEPRA/R/LAD-01/3862

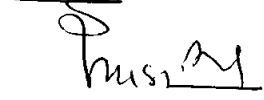
March 25, 2016

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 Show Cause Notice dated July 24, 2015 issued to K-Electric under Section 28 and 29 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997**

Enclosed please find herewith Decision of the Authority (20 pages) in the matter of Show Cause Notice dated July 24, 2015 issued to K-Electric under Section 28 and 29 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 for compliance.

Encl: As above


25.03.2016
(Syed Safer Hussain)

**DECISION OF THE AUTHORITY IN THE MATTER OF SHOW CAUSE NOTICE
DATED JULY 24, 2015 ISSUED TO K-ELECTRIC UNDER SECTION 28 AND 29
OF THE GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC
POWER ACT, 1997**

1. K-Electric Limited (hereinafter referred to as the "K-Electric" or "KE") is the generation, transmission and distribution licensee of National Electric Power Regulatory (hereinafter referred to as the "Authority" or "NEPRA") and as per granted licenses and applicable law, it is bound to provide reliable and uninterrupted electric power services to the consumers within its service territory. The Authority took cognizance of consistent failures of terms and conditions of granted licenses and applicable law by KE and issued a Show Cause Notice under section 28 & 29 of Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "NEPRA Act") which will be disposed of through this decision.
2. The facts giving rise to issuance of Show Cause Notice are that in the month of June, 2015, extended hours of load shedding, system failures and power supply breakdowns were noted in the service territory of K-Electric causing uprising and unrest in the consumers of K-Electric. The Authority observed the adversity of circumstances and in response, constituted a Fact Finding Committee (hereinafter referred to as the "Committee") to collect necessary information and data and submit a report about the aforementioned failures. A letter was issued to K-Electric on June 24, 2015 with explicit directions to arrange and make available the relevant data, information and staff to assist the Committee. The Committee visited KE generation facilities and inspected its distribution and transmission system. The Committee also visited different areas affected by power breakdowns and checked the response time and corrective measures taken by KE. The Committee submitted all the information and data collected by it and provided by KE along with its recommendations for consideration of the Authority.
3. The Authority considered the information, data submitted by the Committee and its recommendations and after thorough deliberations thereupon issued a Show Cause Notice vide its letter No. NEPRA/R/SA(Tech)/LAG-05/11192 dated July 24, 2015 (hereinafter referred to as the "Show Cause Notice") under Sections 28 & 29 of NEPRA Act for violations on the part of K-Electric of the terms and conditions of its licenses and the provisions of rules and regulations framed under the NEPRA Act and the Grid Code and Distribution Code.



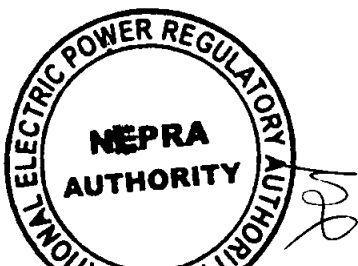
MAIN GROUNDS OF THE SHOW CAUSE NOTICE

4. The main grounds of the said Show Cause Notice enumerated in para 6 thereof are reproduced hereunder:
- a) The licensee's failure to fulfill its service obligation in breach of section 21 of the NEPRA Act read with of Rule 8(1)(b) of the NEPRA Licensing (Distribution) Rules 1999, including, but not limited to the Licensee's failure to ensure uninterrupted power supplies to the consumers within its service territory.
 - b) The Licensee's failure to provide distribution services within its licensed territory on a non discriminatory basis and its apparent discrimination between consumer and group of consumers in violation of section 21(2)(b) of the NEPRA Act, rule 10(b)(ii) of the NEPRA Licensing (Distribution) Rules 1999 and the terms and conditions of its License including but not limited to excessive load shedding carried out by the Licensee in certain areas during the month of Ramadan (June 2015) in soaring temperatures subjecting the consumers to bear load shedding cycles without longer respite periods in between.
 - c) The Licensee's failure to despatch power from its own plants and the IPPs causing a reduction and deliberate under-utilization of the available net generation capacity at various time during the last two years and thereby resulting in the violation of Rule 8 (3) (b)&(f) of the NEPRA Licensing (Generation) Rules 2000.
 - d) The Licensee's failure to comply with prudent utility practices by operating its generation facilities without cushion or reserve margin whereby keeping the consumer at risk of non provision of electricity in the event of fault on high voltage network which is an actionable ground in terms of rule 8 of the Licensing (Generation) Rules 2000.
 - e) Violation of Section 21(2)(f) of the NEPRA Act and Article 11 of the Distribution License, which requires the Licensee to follow the performance standards laid down by the Authority for distribution and transmission of electric power, including safety, health and environmental protection instructions issued by the Authority or any Government agency.
 - f) The Licensee failed to restore the supply of power to the affected consumers in case of unscheduled or unplanned interruption in supply of power within



the time limit specified in the Performance Standards (Distribution) Rules 2005 which amounts to violation of rule 3(3)(a) thereof and Article 11 of its Distribution License, particularly in case of replacement of PMTs there was electricity interruption ranging from 12 hours to 96 hours.

- g) Consistent breach of its terms and conditions of license in ensuring safe, reliable and efficient supply of electricity in accordance with the requirements and provisions of Grid Code, Distribution Code and performance Standards (Distribution) including but not limited to inadequacy of its transmission and distribution systems as these could not support the supply of additional power from generation plants.
 - h) Violation of the System Maintenance and Testing (SMT) of Distribution Code and the terms and conditions of its license in failing to maintain its grid station in a functioning condition to be operable at its rated capacity at all times and ensure that the same can be connected to Distribution System in a safe and reliable manner.
 - i) Violation of Article 7 and 27 of the Transmission License by failing to upgrade enhance, plan and maintain the integrity, reliability and efficiency of its transmission and distribution system
 - j) Provision of mis-leading and incorrect information vide letter No GM (RA)/NEPRA/2015 dated July 4, 2015 by the Licensee which attracts penal action under rule 8 (1) (h) of the NEPRA Licensing (Distribution) Rules 1999.
 - k) Violation of the terms and conditions of license and section 44 of the NEPRA Act on account of failure to provide vital information as required vide letter No NEPRA/R/LAD-01/9867 dated June 30, 2015
5. K-Electric vide its letter dated August 07, 2015 submitted its response to the aforementioned Show Cause Notice. At the outset of its reply, K-Electric submitted that it has challenged the issuance of the Show Cause Notice through Suit No.1453 of 2015 (K-Electric Vs Federation of Pakistan and others) before the Honorable High Court of Sindh, Karachi and through an order dated August 07, 2015, the Honorable High Court of Sindh restrained NEPRA from taking any coercive action against K-Electric. Through its aforesaid response dated August 07, 2015, KE submitted detailed reply to the issues and violations mentioned in the Show Cause Notice. The Authority deliberated upon the aforementioned reply of K-Electric and decided to provide K-Electric an opportunity of hearing. Notice for the hearing was



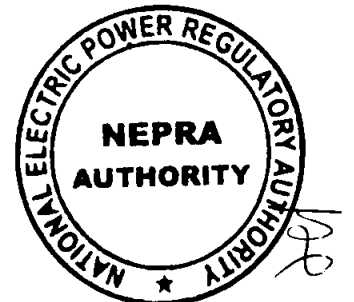
issued to K-Electric vide letter No. NEPRA/R/SAT-I/LAG/-05/13042 dated September 03, 2015. The hearing was held on September 15, 2015 at NEPRA Tower, Islamabad. The Representatives of KE addressed their oral arguments and made submissions in line with the written reply submitted by them earlier.

Written Reply of KE to the Show Cause Notice

6. Following is the gist of the preliminary objections submitted by KE to the maintainability of the Show Cause Notice:

- i) That before issuance of the Show Cause Notice, KE has not been given the opportunity to examine the report prepared by fact finding committee of NEPRA.
- ii) The events related to the system failure were due to unprecedented heat wave during the week commencing June 18, 2015 and was an unforeseen event which has previously never been recorded in Karachi.
- iii) Further, NEPRA has also failed to observe due process by considering historical matters which are now time barred, which raises the issue of double jeopardy.
- iv) NEPRA has wrongly put together the events occurred in summer 2015 and historic events in order to prove consistency of violations by KE.
- v) The Show Cause Notice issued by NEPRA has prejudiced the reputation and goodwill of KE.
- vi) KE denies the allegations leveled by NEPRA in the Show Cause Notice.
- vii) There has never been a consistent failure of its obligations by KE.
- viii) NEPRA is not acting independently.
- ix) The Authority has not taken holistic view of the unfortunate events of June, 2015 and the events in the said period were of isolated nature.
- x) The Government authorities did not publish advance warnings with regard to heat wave.
- xi) In fact, the events of summer 2015 were due to inefficiency of the Government and the KE has been made a scapegoat.
- xii) Since 2008 KE has been working to improve its services.
- xiii) In the State of Industry Report 2014 of NEPRA, KE has been declared best DISCO after IESCO.
- xiv) The issuance of Show Cause Notice is prejudicial, arbitrary and without justification.

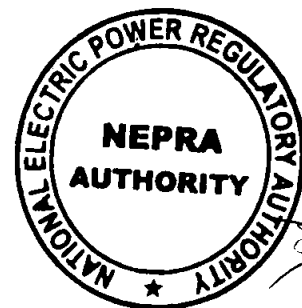
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Analysis of the Preliminary Objections

7. The Authority has carefully examined the submissions made by KE and it notes that no unilateral action has been taken by NEPRA on the basis of the opinion of the Committee. Further, all the information and documents collected by the Committee during the field visits, being part of KE record, was provided by KE itself and the same has been made part of the Show Cause Notice. All the information, data and the documents relied upon and made part of the Show Cause Notice are open to objection by KE and it is a settled principle of law that mere issuance of a Show Cause Notice does not and cannot be taken to mean that an adverse action has been taken. The Show Cause Notice has been issued under relevant and applicable provisions of NEPRA Act and rules and regulations made thereunder and KE has been provided an opportunity to respond and explain its position in writing. In addition to that, KE has been provided an opportunity of hearing and final decision on the show cause notice is being taken after considering the response of KE and documents/evidence submitted by it.
8. The Show Cause Notice was issued by clearly indicating the events of breaches committed by KE and the regulatory actions taken by NEPRA against KE for its persistent and consistent violations of applicable provisions of the licenses and the relevant law. The events referred to in the Show Cause Notice cannot be considered as a past and closed as those events establish that despite number of regulatory actions by NEPRA, KE is consistently acting in breach of the applicable provisions of its licenses and no corrective action, as a responsible and prudent utility, has been taken by KE. Further it was clearly provided in the decision of the Authority dated 13-10-2009 passed in Show Cause Notice dated 21st July, 2009 that if KE continues with its practice of deliberate underutilization of its generation capacity then strict punitive action shall be taken in future. The directions given by the Authority in all earlier proceedings specifically in the decision dated 13-10-2009 are still valid and applicable and non-compliance of the same is sufficient to establish the consistent violations of KE of the terms and conditions of its licenses and applicable provisions of law.
9. It is important to note that in preliminary objections, KE has highlighted a number of events such as unprecedented heat wave, failure of Government Authorities to issue advance warnings, supervening impossibility and force majeure and this is sufficient to establish that the approach of KE is more to justify its failure to handle the situation as a responsible and prudent utility. The same amounts to an admission of KE for violations highlighted by the Authority in the Show Cause Notice.

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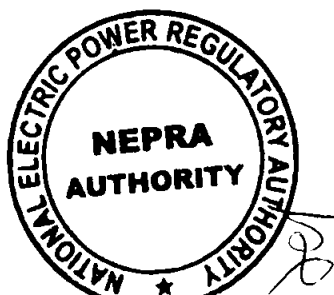


10. KE has relied upon definition of “consistent” as provided in Black's law dictionary as an order done logically with a pattern and anything that does not change. The subject notice clearly provides the list of events and circumstances over a period of time which show that acts have been done logically with a pattern such as in the case of underutilization of its available generation capacity, the utilization pattern for the last few years clearly show that KE has deliberately underutilized its available generation capacity and instead of running its own power plants relied more on power purchases from NTDC with a pattern to save fuel and losses and earn undue profits.
11. KE has also taken objection that in spite of clear poor performance by all Government owned DISCOs and GENCOs, no similar action has been taken by NEPRA. This objection is not relevant as every case is decided on its own merits and considering the facts and circumstances relevant to that case only. NEPRA, being a regulator, invariably takes action against all licensees whether they are Government owned or private as per its regulatory mandate and KE cannot justify its failures and violations on this ground that no similar action has been taken against other licensees.

PARA-WISE SUBMISSIONS OF K-ELECTRIC

Historical Track Record of KE

12. In addition to the above objections, KE submitted para-wise reply to the contents of the Show Cause Notice. The paragraph 3 of the Show Cause Notice enumerated historical record of the violations committed by KE in order to establish that KE has consistently failed to comply with the terms and conditions of its license. The KE submitted following reply to paragraph 3 of the Show Cause Notice:
 - i. KE submitted that it has at all times complied with the requirements of the NEPRA Act, the rules and regulations framed thereunder as well as the terms and conditions of its licenses and the provisions of the Implementation Agreement.
 - ii. The current management took over in the year 2009 and made various improvements whereas the previous management failed to fulfill its obligations in respect of the generation, transmission and distribution of electricity.
 - iii. NEPRA has itself acknowledged the performance of KE.

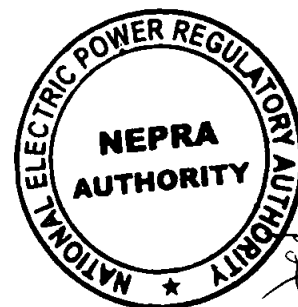


- iv. The matters related to the year 2008-2009 has already been decided by NEPRA, therefore, the same cannot be reopened as they are time barred and some of the matters are sub-judice before the High court.
- v. The matter of under-utilization of generation capacity is sub-judice before the High Court in Suit No.1828/2014 (KE Vs NEPRA and others) and stay order has been passed in favor of KE. Even honorable Supreme Court in its Judgment dated 10-12-2013 passed in Suo Moto case No.14392/2013 has upheld the approach of KE to implement the economic merit order. The replacement of old plants with the new plants has been approved by NEPRA.
- vi. The proceedings initiated by NEPRA against KE regarding the performance standards are still pending. The performance of KE is better than other DISCOs. NEPRA should initiate proceedings against all DISCOs whose performance is not good and start with the worst performing DISCO.
- vii. KE has provided all the information required by the Authority.

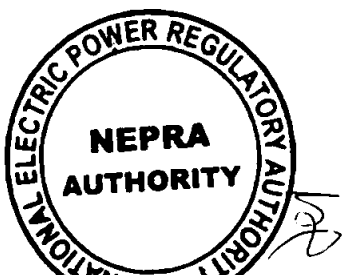
FINDINGS:

- 13. The response of KE has been examined by the Authority and it has been noted that events, facts and circumstances stated in paragraph 3 of the Show Cause Notice clearly establish that KE is consistently violating the terms and conditions of rules, regulations, its licenses and other relevant laws and such violations also contributed to the situation which prevailed in KE system during the June 2015.
- 14. It is noted that on the question of availability of generation in the system of KE, the Authority has never found the explanations provided by KE satisfactory as this issue has continued and persisted all along, having direct and indirect negative impact on the performance of KE. Further, KE despite availability of generation capacity reduced output supply from its generation facilities and it did not meet the load requirements of its consumers. The crisis in KE system in June 2015 has also been noted to be due to the above noted practices by KE, therefore, the consistent and persistent failure of KE is established in the matter.
- 15. Paragraphs 3(d) and 3(e) point out failure of KE in fully utilizing its generation capacity and KE in hearing held on 14th July 2009, also admitted to have underutilized its generation capacity. KE in its response dated August 7, 2015 did not provide further explanation on the issue, therefore, the consistent and persistent failure of KE is established in the matter.

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16. The Authority has considered KE's assertion about carrying out dispatch of power supply sources according to economic merit order, however, the same could not be verified and substantiated by KE, therefore a mere statement to the effect is not acceptable. Further, no document whatsoever was produced in support of the claims made by the KE. KE has also stated that NEPRA has only relied on the installed capacity without considering the planned and unplanned outages and availability of gas. It has been noted that KE has on a number of occasions linked the reduced availability of its generation capacity with the availability of gas and reduced pressure of gas. However, KE's record shows that it reduced its dependable capacity even when gas was available and load shedding was resorted to. The explanation by KE of addition of new generation capacity and decommissioning of existing power plants is not relevant as the practice of KE to intentionally reduce its capacity has been continuing irrespective of the overall capacity. The practice has also been noted during June 2015, and during the hearing held on September 15, 2015, KE was told about reduction in generation capacity although gas was available during the relevant period of June 2015.
17. The Authority has noted the response of KE on paragraph 3(j), however, it is of the view that the accuracy of data provided by KE in connection with the crises during June 2015 requires further examination. Therefore the data provided by KE is required to be kept under scrutiny.
18. KE has also tried to justify the underutilization of its power plants by relying on the judgment of Honorable Supreme Court of Pakistan in *Suo Moto Case No.14392 of 2013* regarding unprecedented load shedding across country. The Authority believes that KE is bound to operate its power plants and exhaust the generation capacity indicated in generation licence to fulfill the needs of the consumers within its service territory. In terms of its generation licence and being a generation licensee, KE is bound to utilize its available generation capacity and it cannot keep them idle on the ground that it has to purchase expensive fuels to run its plants in case of non-availability of gas. Rule 8 of NEPRA Licensing (Generation) Rules, 2000 ("Generation Rules") deals with the revocation and suspension of the generation license of the licensee for its consistent failure to comply with the terms and conditions of the license. The sub rule 3 of Rule 8 of Generation Rules enumerates the events the occurrence of which can constitute the failure of the licensee to comply with the corresponding obligations. Further, sub rule 3(f) describes the reduction in net capacity of the generation facilities for reasons other than planned or maintenance outage or supervening impossibility beyond the control of the licensee which is not remedied within the time specified in this behalf in the applicable documents as an event of failure on the part of the licensee.



Therefore, as per this rule, the under-utilization of generation capacity constitutes failure of KE to comply with its obligations.

K-Electric's Response to paragraph 4 of the Show Cause Notice:

19. KE submitted following reply to paragraph 4 of the Show Cause Notice:
- i. KE denied occurrence of any violation of the NEPRA Act and rules and regulations made thereunder and the terms and conditions of its license.
 - ii. KE further stated that all the events which occurred in June, 2015 were due to severe weather and were beyond its control.
 - iii. The law and order authorities of Government failed to control the law and order situation which prevented KE from performing its functions.

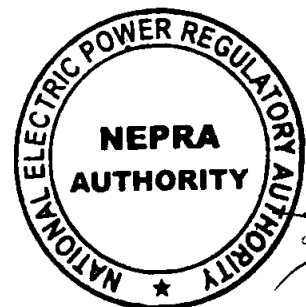
FINDINGS:

20. The Authority has considered the KE's response to paragraph 4 and is of the view that the stance of KE raises serious concerns as the same is an admission on KE's part that during the June, 2015, it could not fulfill its obligation as utility service provider and has attempted to shift the burden of its failure on weather and governmental authorities which is not acceptable.

K-Electric's Response to Paragraph 5 of the Show Cause Notice:

21. KE submitted following reply to paragraph 5 of the Show Cause Notice:
- a. KE has doubled its generation capacity and has added 1037 MW including rehabilitation of old units. KE has invested US\$ 890 Million into developing and augmenting KE's generation capacity.
 - b. The comparison of NEPRA to establish under-utilization of generation capacity is ludicrous and does not take into consideration scheduled and un-scheduled outages of power plants over the course of the year.
 - c. The sponsors of KE have invested Rs.2.5 Billion above the GOP's investments. After 2009, KE has invested Rs.13.3 Billion on rehabilitation and up gradation of the grid and the transmission network.
 - d. KE has a transformative capacity of 4200 MW and the highest power demand ever recorded by KE is 3056 MW which occurred during June, 2015.

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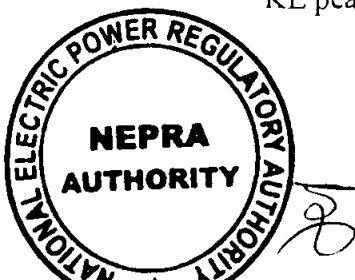


- e. NEPRA has ranked K-Electric as the second best DISCO, therefore, it cannot be said that distribution network of KE is insufficient.
- f. KE denies that its system cannot bear an increase of 200-300 MW power.
- g. There are a total of 22,300 PMTs in the KE network and only 104 PMTs were affected which is less than 0.5%.
- h. NEPRA is considering only June, 2015 which cannot be equated to a normal period.
- i. Only 10,000 to 29,000 consumers of KE were affected during the heat wave and KE managed to work at very high level of efficiency.
- j. As above.
- k. KE has a well thought and considerate strategy for consumers of Karachi for load shedding. High loss areas suffer more load shedding than low loss areas. The Government of Pakistan has also adopted this policy. The Supreme Court has also approved the policy of KE in its judgment reported as 2014 SCMR 220. However, KE suspended its load shedding policy in the month of Ramadan 2015. Further, NEPRA has ranked the KE as second best DISCO in Pakistan and the performance of Government owned DISCOS is worse than KE.
- l. As above.
- m. The allegation of non-provision of information to NEPRA is not true. KE provided all the data.

FINDINGS:

Addition of Generation Capacity

22. With respect to KE's claim to have added 1037 MW in the system, it is noted that after decommissioning and permanent closure of certain plants, only 350 MW has been effectively added to the system. With annual demand increases, KE is able to maintain its system under the garb of a load shedding policy. However the situation in June 2015 has exposed KE's resource limitations. During the crises in June 2015, peak demand increased to more than 3000 MW. KE was able to supply around 2475 MW from all sources including 650 MW from NTDC during this time. The gap between supply and demand was met by KE through load shedding. KE peak demand is expected to be close to 3000 MW in 2016, therefore there is no



option with KE except to carry out load shedding. It is also to be noted that KE has claimed that the situation in June 2015 has been unprecedented, however, there is no guarantee that such situation will not happen again. What is more critical is that KE has no policy to end its dependency on import from NTDC in the near future. As a prudent utility practice KE should have 25 to 30% additional power supply capacity so that it can sustain outage of major supply of its own or from external source. In addition, KE could not substantiate that it is operating its power generation units by following the economic merit order. Therefore, such practice is against prudent utility practices. KE's claim that it is operating as a prudent utility is not accepted and is hereby rejected.

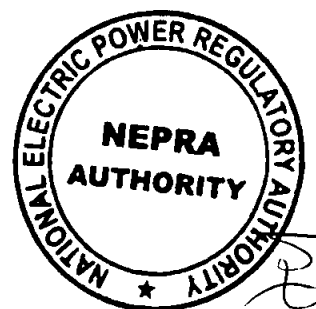
23. KE on the one hand argues that by operating its power plants, the consumers will be burdened, on the other hand it has added to their burden by not building new and efficient power plants as instead of 1000 MW only 350 MW has been added. Had KE added these power plants, its consumers would have been burdened to the extent of fuel cost only. On the contrary, KE is violating the spirit of Multi Year Tariff by looking to power purchases from external sources and lease out options and is proposing to pass-on the total cost to the consumers.

Average Generation capacity Versus Generation during June, 2015

24. The Authority has examined the reply of KE that utilization factor of generation capacity on annual versus one month i.e. June 2015 is misleading and ludicrous. It is observed that utilization factor of KE on annual versus June 2015 clearly establishes that it has deliberately underutilized its available generation capacity and thereby acted in violation of rule 8(3)(b) and (f) of the Generation Rules.

Investment in the Transmission Network

25. The Authority is of the view that KE's claims about investing Rupees 13.3 billion could not be verified. Earlier in response to NEPRA, KE stated that it had spent rupees 9.58 billion in the transmission sector. Out of these rupees 6.059 billion have been spent reportedly on Grid Equipment. KE has not provided any documentary evidence in support of its claim as most of the work in the transmission sector was carried out under FIP. Hence, KE's claim is not acceptable.
26. The Authority has noted the response of KE and is of the view that NEPRA's Show Cause Notice clearly provided the details of network additions made by KE over the previous years, showing that very little additions were made in the transmission network. Hence, KE's response is not acceptable.



Distribution Network

27. The Authority has considered the KE's argument that since NEPRA has ranked it the second best Disco in Pakistan therefore its distribution system is not weak as contended, however, the Authority believes that T&D losses, Recovery, SAIFI, SAIDI, Time Frame for New Connections, Nominal Voltage, Load shedding, Consumer Service Complaints, Safety & Fault Rate were adopted for ranking all distribution companies. Considering the value of human lives, safety standards and safety of human lives were assigned the maximum weight while evaluating the performance of any distribution company. Therefore, the ranking of the KE needs to be seen in only such context and on the parameters fixed by the Authority on the whole. If the highest weight assigned to safety is ignored then the rankings will be changed. KE's response therefore is not acceptable.

Incapability of the System of KE to Sustain 200 to 300 MW Additional Power

28. The Authority is of the view that the charges against KE are based on the information provided by KE which showed increased number of outages and tripping in the transmission and distribution network of KE. No further evidence has been provided by KE to counter this contention. Hence, KE's response is not acceptable.

Tripping in June, 2015

29. The Authority has considered KE's response and is of the view that the NEPRA's Show Cause Notice under this parameter is based on the trend in increased outages and tripping in the transmission and distribution systems of KE. Since KE as a policy carries out load shedding in its system therefore the actual demand is not being met even in the present conditions. KE is obligated to provide continuous supply to its consumers and therefore its arguments about analyzing outages and tripping in absolute terms is not relevant to the charges in the Show Cause Notice. Hence, KE's response is not acceptable.

Overloading of Power Transformers

30. The Authority is of the view that according to the KE's response it had admitted that some components and certain pockets of network were operating at their maximum capacity, however it had claimed that such profile should not be linked to the normal conditions. It is noted that NEPRA had identified two main issues under this paragraph. Inconsistency in the data provided by KE which was observed through field visits and record maintained by KE on the grid stations and secondly isolation of feeders so that the transformers' overloading is avoided. KE's response is silent on these two issues. Further to above, KE during the hearing also



admitted that its understanding on overloading of transformers is based on average conditions prevailing in the grid. KE's clarification during the hearing speaks about the casual approach of KE on an extremely important parameter. KE's response therefore is not acceptable.

Feeder Outages and Faults in Pole Mounted Transformers

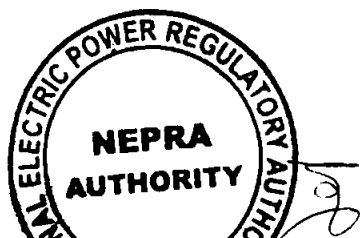
31. The Authority is of the view that paragraphs i and j of the Show Cause Notice relate to number of affected consumers and restoration times taken by KE. The KE has in fact admitted that 10000 to 29000 consumers were affected as was identified by NEPRA in its show cause notice. The contention of NEPRA about the number of persons affected is not vague as claimed by KE in its response. It is observed here that the figures mentioned by NEPRA are already on very conservative basis. The argument forwarded by KE about law and order situation is not acceptable as KE could not provide the data about its inventory levels of the damaged equipment. Hence, KE's response is not acceptable.

Load Shedding Policy of KE

32. Further, KE has tried to justify its load shedding policy and division of its consumers/service territory in high loss, medium loss and low loss areas. KE has also relied upon judgment of honorable Supreme Court of Pakistan reported as 2014 SCMR 220 wherein it has been directed that:

"36....(ii) The competent authority shall take steps to control all kinds of losses after supplying of the generation like line losses, theft etc., by using modern devices like introducing smart meters and supplying electricity only to consumers, who are ready and willing to make payment, if need be, in advance or without default after submission of the bills".

33. The verdict of honorable Supreme Court of Pakistan is consumer specific and not about area wise load shedding, hence not relevant to selective and discriminatory high loss and low loss areas area wise load shedding policy adopted by KE. Regarding load shedding in loss making areas, KE is not legally entitled to shed load in loss making areas across the board as it is bound to supply electric power to a consumer who is paying its dues and comes within the definition of consumer as per eligibility criteria laid down by the Authority. KE is fully entitled to disconnect the electricity of the consumer who is a defaulter or is involved in theft of electricity in the manner prescribed in Consumer Service Manual, however, it has no right to apply load shedding in certain areas across the board.
34. In terms of section 21 (2) (b) of NEPRA Act read with rule 10 (b) (ii) of NEPRA Licensing (Distribution) Rules, 1999, KE is bound to provide distribution services



and make sales of electric power within its territory on a non-discriminatory basis to all consumers who meet the eligibility criteria laid down by the Authority which means that it is bound to provide non-discriminatory services to all consumers who meet the eligibility criteria of being consumer and it cannot exempt itself from fulfilling its obligations on any ground such as non-availability of gas, circular debt, high losses area etc. Since KE has been granted exclusivity within its service territory and no alternative supply is available to the consumers therefore it is bound to fulfill its obligations and provide electric power to all consumers within its service territory. Most importantly, in terms of rule 8(1)(b) of Distribution Rules, any breach by the Licensee of any of the provisions of applicable documents which materially and adversely affects the standards, price and quality of service is an event of default for which an administrator may be appointed by the Authority in respect of the distribution business or distribution license may be suspended or revoked.

35. Additionally, KE has tried to defend its policy of carrying out selective load shedding by referring to National Power Policy 2013, and the directions of the Honorable Supreme Court of Pakistan. The allegations on the part of KE points to the load shedding practices adopted by KE during the month of Ramadan 2015 and it has been established that KE resorted to load shedding practices without regard to the outages and tripping in its system which increased during this period which resulted in absence of power supply over and above the routine load shedding in certain specific areas identified in NEPRA's Show Cause Notice. Therefore the KE, SLS policy coupled with the failure of KE to recognize the extreme difficulties the consumers of so called "high loss areas" were facing cannot be justified. KE needs to know that it has been carrying out load shedding in spite of the fact that there were no fuel constraints justifying or forcing it to reduce power supply from its power generation plants. KE's reference and comparison with other DISCOS are not relevant as KE is a privately managed integrated utility which is in control of not only the distribution business but also generation facilities.
36. It is also to be noted that the weakness in KE transmission and distribution networks and need for massive improvements in these systems is evident from the investment plan proposed by KE during the year 2015-16. The plan shown in the following table clearly indicates that KE had not injected necessary funds in its system earlier and timely improvements have not been made in the specific areas as pointed out by NEPRA in the Show Cause Notice.



*Decision of the Authority in the matter of Show Cause Notice
issued to K-Electric dated July 24, 2015.*

DISTRIBUTION		TRANSMISSION	
Action	Planned	Action	Planned
New 11 kV feeder	23	Expansion/ Rehabilitation of (7) Grid Stations	Addition of (4) new 40 MVA Transfos, (1) new 20 MVA Transfos, Circuit Breaker
HT Cable Replacement (Meters)	18110	Replacement of switches	35+ new and replacement of 11 kV switches
HT overhead Replacement (spans)	728	Installation of relays	
<u>Maintenance of Hot Spots on Feeders</u>		Installation of 132 kV CTs/PTs	
Overhead spans	360	Annual Preventive Maintenance	(60) Power Transfos (6) Auto Transfos
PMTs Rehab	607		
LT Breaker Replacement	582		
D/O Cutout Replacement	203		
SIPs (New PMTs)	118		
LT Preventative Maintenance	558		
HT Cable Ends Termination	53		
<u>BY JUNE 2016</u>			
<u>HT Network 11 kV</u>			
New Feeders	50		
Preventive Maintenance for reduction in tripping by 40%	151 Feeders		
Relays and Protection	150		
Grid switches Extension	62		
Substation Construction	15 no.		
Cable Link Replacement	22 no.		
<u>LT Network 400 V</u>			
ABC Conversion	750 Transfo		
Preventive Maintenance	1540 Transfo		
System Improvement Plans	335 Transfo		

Q



ORDER:

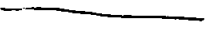
37. In view of the above discussion, perusal of the documents and the arguments addressed in the hearing, the Authority under Section 28 and 29 of the NEPRA Act hereby passes the following Order:

- i. In respect of ground (a) & (f), the Authority hereby impose a fine of Rs. 5 (Five) Million to be paid by KE within thirty days of issuance of this decision.
- ii. In respect of ground (c), the Authority hereby impose a fine of Rs. 5 (Five) Million to be paid by KE within thirty days of issuance of this decision. If KE continues with the practice of reducing or underutilizing its generation capacity, strict punitive action will be taken against it in future.
- iii. In respect of ground (b), the Authority directs KE to provide electric power services to all consumers without any discrimination who meets the consumer eligibility criteria and are neither defaulters nor involved in theft of electricity.
- iv. In respect of ground (j) & (k), the Authority directs KE to provide accurate and timely information as is required by the Authority from time to time failing which, strict punitive action shall be taken in future.
- v. In respect of other grounds, the Authority hereby warns KE and directs it to increase its generation capacity and improves its transmission and distribution system strictly in accordance with the investment plans submitted by it and attached as **Annexure-A** to this decision. The Authority directs KE to complete all indicated investment plans within the timelines and file quarterly reports to the Authority.
- vi. In case KE does not pay the fine within thirty days or does not comply with the orders/instructions of the Authority as given hereinabove, separate legal proceedings shall be initiated under section 41 of the NEPRA Act read with

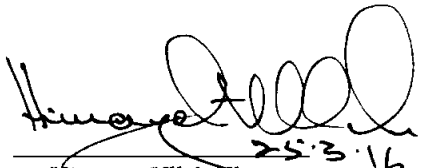


rule 7 & 8 of the NEPRA (Fines) Rules, 2002 or any action under section
28 of NEPRA Act.

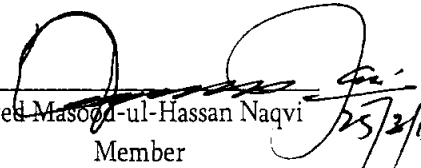
AUTHORITY



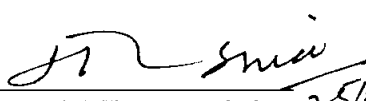
Khawaja Muhammad Naeem
Member



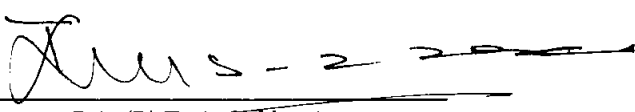
Himayat Ullah Khan
Member



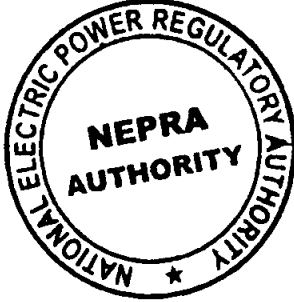
Syed Masood-ul-Hassan Naqvi
Member



Maj (R) Haroon Rashid
Vice Chairman



Brig (R) Tariq Saddozai
Chairman

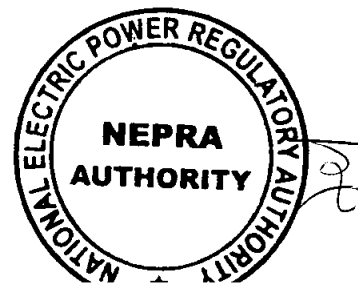


25.03.16

Annual Plan FY2016 – Phase I (to be completed by December 2015)

Following work will be carried out at different locations during the financial year 2016 as part of our annual plan for rehabilitation and enhancement of distribution and transmission network.

DISTRIBUTION		TRANSMISSION	
Action	Planned	Action	Planned
1. New 11kv feeders to balance the overloaded Feeder	23	1. Expansion / Rehabilitation of Grid Stations - Qayumabad - Dhabejl - Malir - Federal B. Area - West Wharf - Korangi West - Pipri	- 11 kV Switchyard (Qayumabad) - Four (4) new 40 MVA Trafos - One (1) new 20 MVA Trafo - 132kV Pneumatic Circuit Breaker with Spring Charge Mechanism - Restoration of indications and command signals. (Pipri)
2. HT Cable Replacement - Length (meters)	18,110	2. Replacement of fatigued switches and installation of new switches.	- 35+ new and replacement of 11 kV Switches
3. HT Overhead Reinforcement (spans)	728	3. Installation of Relays	- Five (5) Differential Relays - Eight (8) Distance Relays
Maintenance of Hotspots on Feeders		4. Installation of 132 kV CTs/PTs - SGT Line #2 - Federal B Trafo #1 - 132 kV Valika Ckt	
4. Overhead – spans	360	5. Annual Preventive Maintenance	- Sixty (60) Power Trafos - Six (6) Auto Trafos
5- PMTs Rehab	607		
6- LT Breaker Replacement	582		
7- D/O Cutout Replacement /	203		
8- SIPs (New PMTs)	118		
9- LT Preventative Maintenance	558		
10- HT Cable Ends Termination	53		



Annual Plan FY2016 – Phase II (to be completed by June 2016)

DISTRIBUTION

HT Network – 11KV

New Feeders Addition – 50 Feeders

- Relieving of associated feeders
- Improved Load balancing & network enhancement

Preventive Maintenance – 151 Feeders

- Expected reduction in tripping by 40%

Relays & Protection – 150 at S/S

Grid Switches Extension – 62 Switches

Substation Construction – 15 S/S

Cable Link Replacement – 22 Links

- Approx cable length 8.4 km
- Expected Reduction in faults by 90%

LT Network – 400V

ABC Conversion – 750 Transformers

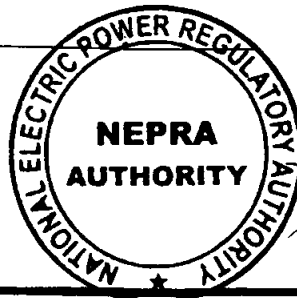
- LT infrastructure will be converted from bare conductors to bundled & intact wires
- Theft prevention & load balancing
- Improved and reliable distribution network with minimized faults

Preventive Maintenance – 1,540 Transformers

- Planned on hotspot transformers with frequent faults
- Capacity overloaded also catered
- Reduced faults / outages

System Improvement Plan (SIPs) – 335 Transformers

- Planned reinforcement & segregation for transformers
- To cater faults & load growth



Annual Plan FY2016 – Phase II (to be completed by June 2016)

TRANSMISSION

Action	Planned
1. Overhauling of Grid Stations - 132 kV Pipri Grid Station - 220 kV Baldia Grid Station	- GIS Overhauling
2. Installation of Power Equipment and Switches at Grid Stations: - Garden - Korangi West - Port Qasim - Gizri - Pipri	- Four (4) New Power Transformers - Twenty Five (25) new 11 kV Switches
3. Installation of Spring Charged Circuit Breakers	- Five (5) 132 kV Spring Charged Circuit Breakers
4. Installation of current and potential transformers	Five Sets
5. Replacement of bolted joints at 132 kV BOC-Dhabeji / Pipri Circuit	
6. Quarterly cycles of Line Insulators cleaning on all major 220 kV lines	
7. Rehabilitation of Gantries and PLDP at Sir Syed and Jam Sadiq.	
8. Procurement of additional Power Trafos for replacement/ contingency	- Four (4) New Power Transformers

