



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

**Registrar**

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

No. NEPRA/R/D(CAD)/TCD.03/11413-15

July 31, 2015

Secretary  
WAPDA Employees Cooperative Housing Society  
A-1/100, WAPDA Employee Town, Gujranwala

Subject: **MOTION FOR LEAVE FOR REVIEW FILED BY SECRETARY WAPDA  
EMPLOYEES CO-OPERATIVE HOUSING SOCIETY GUJRWALA  
(WECHS) AGAINST THE DECISION OF NEPRA IN PURSUANCE TO  
THE DIRECTIONS OF THE HONORABLE LAHORE HIGH COURT IN  
WRIT PETITIONS NO. 22622/2013 AND NO. 29982/2013 IN THE  
MATTER OF WECHS VS GEPCO**  
Complaint # GEPCO-26-2012

Please find enclosed the decision of the Authority regarding your motion for leave for review dated April 28, 2015 against the decision of NEPRA dated March 05, 2015 for your information and necessary action.

  
31 07: 15  
(Syed Safeer Hussain)

Copy to:

Chief Executive Officer  
Gujranwala Electric Power Company (GEPCO)  
565/A, Model Town GT Road, Gujranwala.

Rana Sajjad Sarwar S/o Mr. Ghulam Sarwar  
R/o A-1, 483, WAPDA Town, Gujranwala



**BEFORE THE  
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY  
(NEPRA)**

**Complaint No. GEPCO-26-2012**

Secretary ..... **Petitioner**  
WAPDA Employees  
Cooperative Housing Society,  
A-1/100, WAPDA Employees Town, Gujranwala

**Versus**

Gujranwala Electric Power Company (GEPCO), ..... **Respondent**  
565/A, Model Town GT Road, Gujranwala.

**Date of Hearing:** July 28, 2015

**Date of Decision:** July 28, 2015

**Present:**

- |    |                              |                                   |
|----|------------------------------|-----------------------------------|
| 1) | Brig (R) Tariq Saddozai      | Chairman                          |
| 2) | Maj (R) Haroon Rashid        | V.C./Member (Consumer Affairs)    |
| 3) | Khawaja Muhammad Naeem       | Member (Tariff)                   |
| 4) | Mr. Himayat Ullah Khan       | Member (Monitoring & Enforcement) |
| 5) | Syed Masood-ul- Hassan Naqvi | Member (Licensing)                |

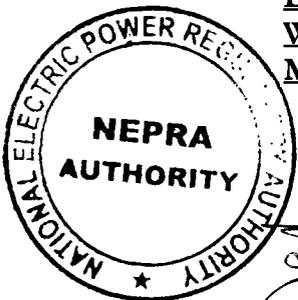
**On behalf of:**

**Petitioner:** 1) Sh. Muhammad Ilyas  
2) Mr. Azhar Saeed Butt

**Respondent:** 1) Mr. Junaid Akhtar, Chief Engineer (Development)  
2) Mr. Ghulam Mustafa, Additional Deputy Director (Planning)

**Complainant:** Mr. Sajjad Sarwar and Mirza M. B. Khan

**Subject:** **MOTION FOR LEAVE FOR REVIEW FILED BY WAPDA EMPLOYEES COOPERATIVE HOUSING SOCIETY, GUJRWALA (WECHS) AGAINST THE DECISION OF NEPRA IN PURSUANCE TO THE DIRECTIONS OF THE HONORABLE LAHORE HIGH COURT IN WRIT PETITIONS NO.22622/2013 AND NO.29982/2013 IN THE MATTER OF WECHS VS GEPCO**



## Decision

1. This decision shall dispose of the Review Motion dated 28<sup>th</sup> April 2015 filed by Secretary, WAPDA Employees Cooperative Housing Society, Gujranwala (hereinafter referred to as the 'Petitioner' or 'WECHS') against the decision of NEPRA dated 5<sup>th</sup> March 2015 in the matter of complaint of WECHS filed under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 against Gujranwala Electric Power Company (hereinafter referred to as "the Respondent" or "GEPCO").

2. Brief facts of the case are that WECHS approached NEPRA in May 2012 and requested that GEPCO be directed to take-over their distribution system except maintenance as per MoU signed between WECHS and GEPCO. The case was taken-up with GEPCO. Upon non-resolution of the dispute between the parties, several meetings were also held wherein representatives of WECHS, GEPCO and NEPRA participated. The point of view of WECHS was that they intend to hand-over their distribution system to GEPCO and retain its maintenance with themselves. On the contrary, the proposed model/arrangement has no legal justification under Regulation 4-A(2) of Consumer Eligibility Criteria, 2003 which states as under:

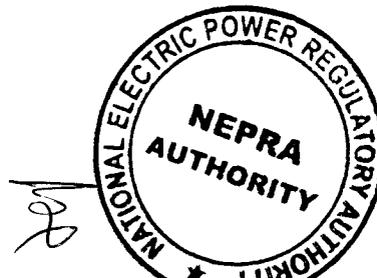
"The Sponsored Dedicated Distribution System other than service wire and meter may be converted into Common Distribution System on the request of the sponsor. In such case, the distribution company shall take over the system for its operation and maintenance purpose and thereby the augmentation and extension shall be carried out by the distribution company without any charges from the Sponsor. Notwithstanding conversion of such system into Common Distribution System, it shall not form part of the assets of the distribution company, therefore, the distribution company shall not be obliged to reimburse the cost of the Sponsored Dedicated Distribution System to the Sponsor."

3. Foregoing in view, WECHS was advised vide NEPRA's letter dated 27<sup>th</sup> March 2013 to come-up with a clear stance either to approach NEPRA for grant of distribution license or hand-over its distribution system to GEPCO for its operation and maintenance without any condition. In response, WECHS approached the Honorable Lahore High Court and filed Writ Petition No. 22622/2013. Meanwhile, Mr. Sajjad Sarwar, a resident of WECHS, also filed a Writ Petition No. 29982/2013 before the Honorable Lahore High Court.

4. The Honorable Lahore High Court disposed of both the writ petitions vide its Orders dated 2<sup>nd</sup> December 2014. In Writ Petition No. 22622/2013, NEPRA was directed to decide the case afresh after hearing the parties concerned and by way of a reasoned and speaking order taking care of all facts involved and the law applicable to the matter within a period of two months from the date of receipt of a certified copy of the Order. In Writ Petition No. 29982/2013, the Honorable Court held that NEPRA while determining the matter referred to it in the connected petition shall also hear the petitioners in this petition after taking into consideration the circumstances put forth by them as well and decide the matter afresh within the time frame given in the said order. Certified copies of the Orders of the Honorable Lahore High Court dated 2<sup>nd</sup> December 2014 were not received in this office, however, copies of the Orders were provided to this office by the Complainant on 6<sup>th</sup> January 2015.

5. Accordingly, action was initiated by NEPRA and opportunity of hearing was given to the parties. The case was examined in detail in light of available record, arguments advanced during the hearings, relevant documentary evidence and applicable law and WECHS was directed vide decision dated 5<sup>th</sup> March 2015 to apply to NEPRA for grant of distribution license & determination of tariff within 30 days of receipt of the decision.

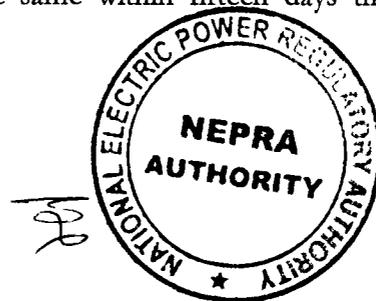
6. In response, WECHS vide its letter dated 28<sup>th</sup> April 2015 filed a Review Motion against the decision and also submitted an application for grant of distribution license. Main contents of the Review Motion are as under:



- i. The decision conveyed by NEPRA is not exhaustive. It suffers from certain infirmities and does not attain correct interplay of justice. WECHS is inclined to keep repair and maintenance of its dedicated system under its control while meter reading/billing by GEPSCO. WECHS's scheme of work has been turned down being in conflict with Consumer Eligibility Criteria, 2003, while no express bar is mentioned in the said Criteria.
- ii. WECHS placed documentary evidence before NEPRA to substantiate the fact that its demand of retaining the distribution system under its control and metering/billing by GEPSCO is not exceptional but stands consistent with other societies. If WECHS's demand had no meat in it then a notice should have been taken to prevent other societies from such exercise. Such state of affairs gives rise to discrimination between consumers.
- iii. GEPSCO vide its memo dated 7<sup>th</sup> June 2012 candidly conceded and agreed to take-over the billing system only subject to payment of considerable amount of grid sharing cost as already decided in the 70<sup>th</sup> BOD meeting of GEPSCO. This agreement, after starting payment of the demanded money, attracts legal force under the Contract Act, 1872 and cannot be altered/revoked unilaterally.
- iv. NEPRA's decision was signed by the Authority who in fact was not present during the course of hearing. Thus, it becomes avert that the signing Authority was not fully equipped with the real trait of the case.
- v. Pursuant to the decision of BOD GEPSCO vide its 70<sup>th</sup> meeting held on 14<sup>th</sup> February 2009, WECHS has deposited Rs. 66,011,000/- through 19 installments till date. It is highest mockery of law that the said decision passed by the competent forum and attained finality was revoked/recalled during BOD GEPSCO 46<sup>th</sup> meeting held on 10<sup>th</sup> February 2015, as communicated by Chief Engineer (P&E) GEPSCO vide letter dated 2<sup>nd</sup> March 2015. An agreement enforceable by law is a contract which cannot be altered/changed/revoked/recalled unilaterally. It is a clear violation of Section 21 of General Clauses Act.

6. The review motion filed by WECHS was admitted by the Authority for hearing and accordingly hearing was scheduled for 25<sup>th</sup> June 2015 at NEPRA Islamabad wherein WECHS, GEPSCO and the Complainant were advised to appear before the Authority to present their case. However, WECHS requested for rescheduling of the hearing due to appearance of the Secretary WECHS in LLB examinations. Accordingly, the hearing was rescheduled for 9<sup>th</sup> July 2015. Again, WECHS requested for rescheduling of the hearing with the request that the Secretary WECHS intends to observe Etqaf from 8<sup>th</sup> July 2015 during the holy month of Ramzan. The hearing was accordingly re-scheduled for 28<sup>th</sup> July 2015.

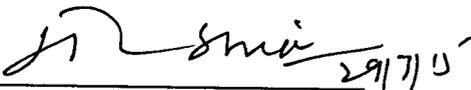
7. Meanwhile, Mr. Sajjad Sarwar again approached Honorable Lahore High Court and filed Criminal Original No. 1595-W/2015 against NEPRA, WECHS & GEPSCO. The Honorable Lahore High Court disposed of the said Criminal Original No. 1595-W/2015 vide its Order dated 3<sup>rd</sup> July 2015 wherein it was held that let copy of the petition along with all the annexures be dispatched to the Chairman NEPRA for its decision on merit. The petitioner (the Complainant) along with copy of the order shall appear before the Chairman NEPRA on 13<sup>th</sup> July 2015 at 11:00 am who will hear the petitioner (the Complainant) and decide the same within fifteen days thereafter, strictly in

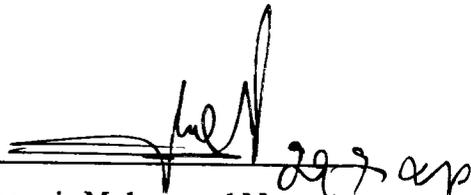


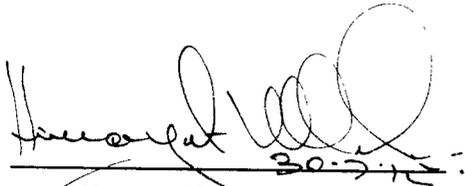
accordance with law. However, the Complainant did not appear before the Chairman NEPRA on the said date.

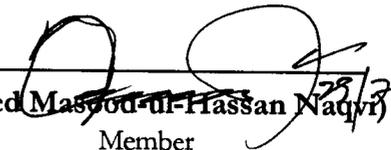
8. Hearing in the matter of Review Motion filed by WECHS was held on 28<sup>th</sup> July 2015 at NEPRA Head Office, Islamabad wherein all concerned parties, i.e. WECHS, GEPCO and Complainant, participated and advanced their arguments.

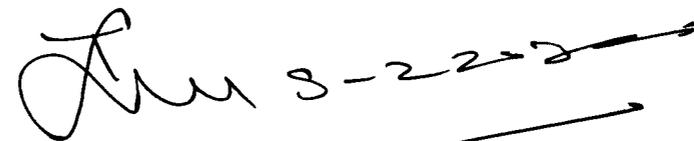
9. The review motion filed by WECHS was reviewed in detail and the Authority, after detailed deliberations on the review motion, decided that in terms of Regulation 3(2) of NEPRA (Review Procedure) Regulations, 2009; a motion seeking review of any order of the Authority is competent only upon discovery of new and important matter of evidence or on account of some mistake or error apparent on the face of record. The perusal of the decision sought to be reviewed clearly indicates that all material facts and representations made were examined in detail and there is neither any occasion to amend the impugned decision nor any error inviting indulgence as admissible in law has been pleaded out. Therefore, the Authority is convinced that the review would not result in the withdrawal or modification of the impugned decision. Hence, the motion for review is declined.

  
\_\_\_\_\_  
(Maj (R) Haroon Rashid)  
Member

  
\_\_\_\_\_  
(Khawaja Muhammad Naeem)  
Member

  
\_\_\_\_\_  
(Himayat Ullah Khan)  
Member

  
\_\_\_\_\_  
(Syed Masood-ul-Hasan Naqvi)  
Member

  
\_\_\_\_\_  
(Brig (R) Tariq Saddozai)  
Chairman  
20/7/15

