



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/CAD/TCD-09/2015/15591

October 27, 2015

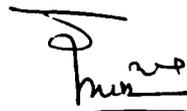
Chief Executive Officer
K-Electric Limited
(formerly Karachi Electric Supply Company)
KE House No. 39-B, Sunset Boulevard, Phase-II,
Defense Housing Authority, Karachi.

Subject: **DECISION OF THE AUTHORITY IN THE MATTER OF MOTION FOR LEAVE FOR REVIEW FILED BY K-ELECTRIC LIMITED AGAINST THE DECISION OF NEPRA DATED 13TH MARCH 2015 REGARDING BANK COLLECTION CHARGES OF RS. 8/- CHARGED BY K-ELECTRIC LIMITED**

Reference is made to Motion for Leave for Review filed by K-Electric Limited dated 31st March 2015 against the decision of NEPRA dated 13th March 2015 in the matter of bank collection charges of Rs. 8/- charged by K-Electric Limited.

2. Please find enclosed herewith the decision of NEPRA regarding the subject matter for necessary action and compliance within thirty (30) days.

Encl: As above


27.10.15
(Syed Safer Hussain)



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

Date of Hearing: 3rd June 2015

Date of Decision: 17th September 2015

Present:

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

On behalf of:

- K-Electric Limited:** (formerly KESC)
- | | |
|----|---|
| 1) | Mr. M. Aamir Ghaziani, Director (Finance & Regulations) |
| 2) | Mr. Sajjad Asghar Khan Shahani, Director |
| 3) | Mr. Khalid Rehman, Director |
| 4) | Mr. Abdul Rauf Yousaf, Advisor |

Subject: **DECISION OF THE AUTHORITY IN THE MATTER OF MOTION FOR LEAVE FOR REVIEW FILED BY K-ELECTRIC LIMITED AGAINST THE DECISION OF NEPRA DATED 13TH MARCH 2015 REGARDING BANK COLLECTION CHARGES OF RS. 8/- CHARGED BY K-ELECTRIC LIMITED**

DECISION

This decision shall dispose of the Review Motion dated 31st March 2015 filed by K-Electric Limited (hereinafter referred to as the "Petitioner" or "KE") against the decision of National Electric Power Regulatory Authority (hereinafter referred to as the "Authority" or "NEPRA") dated 13th March 2015 regarding bank collection charges of Rs. 8/- charged by KE.

2. Brief facts of the case are that a complaint was received in NEPRA with respect to illegal recovery of Rs.8/- as bank collection charges by KE. As per the procedure, proceedings were initiated and report was sought from KE. A public hearing was also held at Karachi and thereafter, KE was directed to apply formally to the Authority for approval of bank collection charges. Accordingly, KE submitted a formal request dated 15th November 2007. However, further proceedings in the matter were suspended as a suo-moto case No.4 of 2006 was pending before the Supreme Court of Pakistan regarding facilities provided by banks to consumers for deposit of utility bills. Meanwhile, KE, upon change of management, filed a tariff petition and its Multi-Year Tariff (MYT) was modified in the year 2009 and was extended till the year 2016 to bring in line with the amended implementation agreement signed between the new management of KE and Government of Pakistan; however, KE did not request for merger of bank collection charges in its tariff petition. No permission/authorization was granted by the Authority to KE to charge separately an additional amount of Rs. 8/- over and above the already determined bank collection charges in the MYT determination and its adjustment mechanisms. Upon disposal of the suo-moto case by the Supreme Court of Pakistan, further proceedings in the matter were initiated. Accordingly, considering the request and record made available by KE, the Authority allowed KE to charge bank collection charges and final approval was accorded by the Authority to KE on 21st July 2010 (conveyed to KE vide letter dated 26th July 2010) for bank collection charges @ Rs.8/-. While submitting formal request for approval of bank collection charges, KE concealed the facts and did not disclose that the bank collection charges were already part of overall O&M cost of KE.

3. The Authority received numerous complaints against KE in 2013 regarding bank charges collected by KE. While taking cognizance of the complaints, the Authority decided to consider the issue afresh. In light of MYT of KE



and other applicable documents, the Authority scrutinized all relevant information/documents and it was transpired that KE made false and misleading statements and on the basis of those statements, it got approved bank collection charges from the Authority. The Authority took note, with deep concern, of the irresponsible attitude of KE by drawing certain financial benefits which could not be expected and ought not to be done by KE as a responsible and prudent utility company. The bank collection charges were part of KE's MYT allowed to it through Authority's determination dated 10th September 2002 and KE has been collecting bank charges in duplication i.e. through tariff and through electricity bills. While taking into account these facts, the Authority decided to initiate proceedings in terms of section 7(2)(g) of the NEPRA Act, 1997 read with Regulation 3(1) of NEPRA (Review Procedure) Regulations, 2009 (hereinafter referred to as the "Review Regulations") to review its decision dated 21st July 2010 and accordingly, the case was taken up with KE vide letter dated 3rd December 2013. In response, KE submitted an un-satisfactory reply vide its letter dated 20th December 2013 and informed that bank collection charges were not part of KE's overall O&M cost. The case was again taken up with KE wherein KE was directed to respond/clarify that if bank collection charges were not part of KE's MYT, then why KE was not collecting bank collection charges of Rs. 2/- from its consumers prior to revision of these charges by State Bank of Pakistan in June 2006 i.e. between September 2002 to June 2006. It was also enquired from KE that as per the financial statements, KE was paying bank collection charges to banks for collection of bills prior to revision of rates by State Bank of Pakistan in 2006. If KE was not collecting bank collection charges from its consumers prior to June 2006, then where these charges were taken into account/accounted for. In response, KE did not reply to these queries/questions and requested for a meeting on the subject matter vide its letter dated 3rd February 2014, however, the request of KE was rejected.

4. The record available with NEPRA reveals that the costs for the financial year 1998-99, used as basis for the tariff petition for increase in tariff w.e.f. 1st May 1999, included bank collection charges of Rs.24 Million, appearing in the statement of costs for the year 1998-99, projected to increase to Rs. 28.8 Million for FY 1999-00, and Rs. 33.60 Million in FY 2000-01 prior to the period of signing of Data Processing Agency Agreement with Citi Bank. The financial statements of KE for years ended on 30th June 2001 and 30th June 2002 show Rs. 36.023 million and Rs. 44.217 million respectively on account of bank collection charges which has been shown as expense of KE under the head of 'Consumer Services and Billing Expenses' in its books of account. Further, it is also clear from financial statements of KE for FY 2003, FY 2004, FY 2005 and FY 2006 that KE was paying bank collection charges to the banks for collection of monthly bills. Bank collection charges @ Rs.2/- per bill were part of the overall O&M cost allowed to KE through Authority's determination dated 10th September 2002. Considering increase in O&M cost component allowed to KE since 2002, the impact on rate of Rs.2/- on year-to-year basis on account of CPI indexation has further been enhanced as under:

O&M Cost Component (Financial Year ended June 30)	O&M Distribution (Ps/kWh)	Bank Collection Charges (Rs/bill)
Year 2002-03	32.00	2.00
Year 2003-04	33.14	2.07
Year 2004-05	34.46	2.15
Year 2005-06	37.99	2.37
Year 2006-07	40.62	2.53
Year 2007-08	43.74	2.72
Year 2008-09	49.91	3.10
Year 2009-10	57.93	3.59
Year 2010-11	81.64	5.06
Year 2011-12	90.00	5.58
Year 2012-13	98.36	6.10
Year 2013-14	100.46	6.23
Year 2014-15	105.825	6.56

5. KE was directed through an interim order dated 6th February 2014 to stop collecting additional bank collection charges @ Rs. 8/- from its consumers till decision on the case by the Authority. In response, KE vide its letter dated 10th February 2014 termed the interim order as illegal and refused to implement the decision of the Authority. KE was, inter-alia, of the view that hearing opportunity was not provided to it before issuance of the interim order. Hence, request of KE was considered and a hearing was scheduled for 11th March 2014 and KE was directed to depute concerned officials well conversant with the case to attend the hearing along with complete evidence and record with respect to contentions of KE that bank collection charges were not part of KE's MYT. KE was also directed that the interim order will remain in force till final decision by the Authority.

6. Meanwhile, KE vide its letter dated 4th March 2014 informed that the interim order of NEPRA is against NEPRA Act, Rules and Regulations and is not legally enforceable against KE at present. Further, KE requested that hearing scheduled for 11th March 2014 may be re-scheduled. However, the request of KE was not considered and the hearing was held on 11th March 2014 at NEPRA Head Office, Islamabad as per schedule which was attended by KE officials. During the hearing, KE officials again requested that they may be allowed 10 days time so that they could prepare the case and present the same before the Authority in detail and also requested for suspension of the interim order. The request of KE was considered to the extent of hearing and the same was adjourned as requested by KE. Accordingly, another hearing was held on 27th March 2014 at NEPRA Head Office, Islamabad, wherein KE



[Handwritten signature]

[Handwritten mark]

representatives presented their case before the Authority. However, representatives of KE failed to submit satisfactory response to the queries and issues raised by the Authority. KE's representatives also failed to submit proper response as to why KE was not collecting bank collection charges from its consumers prior to revision of the same by the State Bank of Pakistan in June 2006, i.e. between September 2002 to June 2006. Moreover, KE representatives could not provide any evidence in support of their contention that bank collection charges were not part of KE's MYT.

7. In pursuance to the hearing dated 27th March 2014, the case was decided by the Authority and the decision was conveyed to KE vide NEPRA's letter dated 13th March 2015 for compliance within thirty (30) days, wherein KE was directed as under:

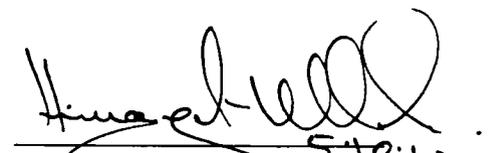
- i. Immediately stop charging of Rs. 8/- as bank collection charges from its consumers being illegal, unlawful and unjustified.
- ii. Workout and intimate the amount so far collected in duplication on account of bank collection charges @ Rs. 8/- from its consumers since 2006 for adjustment and refund to the consumers.

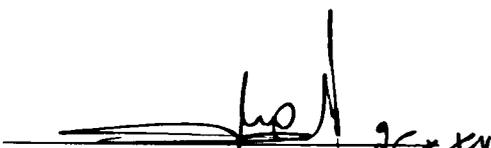
8. Being aggrieved with the decision, KE filed the instant Review Motion. The Review Motion filed by KE was considered by the Authority and the same was admitted for hearing. Accordingly, hearing in the matter was held on 3rd June 2015 at NEPRA Head Office, Islamabad wherein KE representatives participated and advanced their arguments before the Authority on the basis of their earlier submissions.

9. During the course of hearing, KE representatives admitted that bank collection charges amounting to Rs. 36.023 Million and Rs. 44.217 Million for the years 2001 and 2002 respectively, reflected in the Annual Report of KE, were part of O&M cost component of MYT of KE. Further, KE representatives confirmed that prior to year 2006, KE was not charging bank collection charges from its consumers, from which it is evident that bank collection charges were part of MYT of KE. There is no force in the arguments of KE that bank collection charges reflected in Annual Report were paid to Citi Bank for provision of data processing services, whereas Annual Report clearly indicates that these were bank collection charges. *separately*

10. The Regulation 3(2) of the Review Regulations provides that any party aggrieved from any order of the Authority and who, from the discovery of new and important matter of evidence or an account of some mistake or error apparent on the face of record or from any other sufficient reason, may file a motion seeking review of such order. Further, Regulation 3(7) of the Review Regulations provides that the motion for review may be refused by the Authority if it considers that the review would not result in the withdrawal or modification of the order. KE has failed to bring any new and important matter of evidence which was not considered by the Authority at the time of passing of the decision and also failed to point out any mistake or error apparent on the face of record. It is also evident from the perusal of the decision that all material facts and documents were in knowledge of the Authority and the record clearly shows that the Authority passed the decision after consideration of all material facts and documents. Therefore, the Authority is of the view that the review is not maintainable in terms of Regulation 3(2) of the Review Regulations and the same is hereby dismissed.

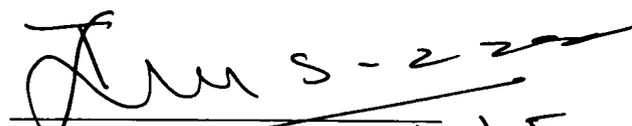

(Syed Masoodul-Hassan Naqvi) 21/15
Member

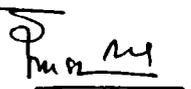

(Himayat Ullah Khan) 5-10-15
Member


(Khawaja Muhammad Naeem) 26-X-15
Member


(Maj. (Retd.) Haroon Rashid) 27/15
VC/Member




(Brig. (Retd.) Tariq Saddozai) 21/15
Chairman


27.X.15