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For information kula

- ADG (Lic)
- ME
- copy to:
- SA Tech
- DG (M&E)
- ADG (Inf)

- 8/9/20
- co chairman
- VC (M&E)
- M (Lic)
- M (M&E)
- M (CA)



Mr. Syed Safeer Hussain,  
 Registrar,  
 National Electric Power Regulatory Authority (NEPRA),  
 NEPRA Tower, Attaturk Avenue (East), G-5/1,  
 Islamabad.

Ref # KE/BPR/NEPRA/2020/1005  
 September 07, 2020

**SUB: AUTHORITY PROPOSED MODIFICATION IN THE DISTRIBUTION LICENSE OF K-ELECTRIC LIMITED**

**Ref: Your Letter dated 03.09.2020 bearing Reference No. NEPRA/ADG(Lic)/LAD-01/26861**

Dear Sir,

1. We are in receipt of your above referred letter that was received by us on 03.09.2020 at around 4:45 PM and submit at the outset that the period of 3 days for submitting reply, on a matter of fundamental importance for KE, its investors & consumers, is insufficient and hereby submit the instant preliminary reply whilst reserving our right to submit a detailed response within a period of 7 days. At the outset, K-Electric Limited ("KE") hereby denies the Authority Proposed Modification. It is submitted that the Proposed Modification is not in the public interest rather it is against the public interest and the criteria provided under Section 26 of the NEPRA Act, 1997 (as amended) and the NEPRA Licensing (Application and Modification Procedure) Regulations, 1999 is not met. The Proposed Modification will have an adverse and devastating effect *inter alia* on the performance of the licensee, on the service being provided to consumers and on the costs and tariffs of the licensee.
2. It is brought to your attention that the Honorable Supreme Court in its Order dated 01.09.2020 has allowed NEPRA to conduct proceedings under Section 26 of the NEPRA Act, 1997 (as amended) on the basis and plea of NEPRA that removal of exclusivity would directly enable the consumers of those area who are experiencing load shedding with more options in the form of multiple service / electricity providers. However, the Proposed Modification in the letter under reply is against the spirit of the Order passed by the Honorable Supreme Court as the Proposed Modification is aimed at providing choice to star / low loss consumers such as industrial, bulk power and low loss residential and large commercial consumers who even at present are not experiencing load shed. The Proposed Modification is against the public interest as it will enable new distributors / suppliers to carve out such low loss consumers from the KE's distribution network and resultantly increase cost for remaining regulated consumers for which no provision is suggested by NEPRA to cater to those consumers who the Honorable Supreme Court is seeking to protect.
3. In this regard, it is pertinent to mention that in past NEPRA has only authorized generators to sell electrical power to those consumers of KE who are not facing any load shed and the Proposed Modification is aimed at legalizing such unlawful concessions already granted by NEPRA which also impairs the competitive landscape as KE, being governed under regulated tariff regime, cannot commercially set its tariff to compete. NEPRA is well aware that such consumers cross subsidize the vulnerable segments of KE's service territory and removal of such consumers from KE's ambit would result in avoidance of social obligation cost which will be passed on to remaining regulated consumers, thereby further aggravating the situation for these consumers especially in high loss areas. Accordingly, it is submitted that the Proposed Modification is not only against the public interest but also contrary to the Honorable Supreme Court's Order. Moreover, instead of focusing on areas which currently experience load shed and proposing a modification for those areas only, NEPRA's insistence on the entire

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service territory including over 75% load shed exempt areas goes to show that under the garb of public interest NEPRA is attempting to benefit low loss segments at the expense of vulnerable consumers. Due to paucity of time, KE is unable to immediately submit a detailed response with factual evidence in this regard and therefore reserves its right to submit detailed facts on this point along with its detailed reply to be submitted within 7 days.

4. Moreover, it is once again clarified that the provisions of Act No. XII of 2018 do not have retrospective effect, hence the terms of the Distribution License (DL) of KE cannot be changed by giving retrospective effect to the provisions of the Act No. XII of 2018. Moreover, Section 50 of the Act No. XII of 2018 itself protects anything done and all actions taken under the 1997 Act from being adversely affected or divested (including KE's DL) hence the proposed modification cannot be justified on the basis of amendments made through the said enactment.
5. It is pertinent to mention that KE's current MYT tariff for seven year period was determined by NEPRA on the basis that it will have exclusivity for this period, and any material changes, such as the one proposed by the Authority will be in violation of the Authority's own decision.
6. KE reserves its right to submit a detailed response within 7 days.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Ghaziani', is written over a horizontal line.

**Muhammad Aamir Ghaziani**  
Chief Financial Officer

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