

Islamabad, the 19<sup>th</sup> January 2002

## NOTIFICATION

S.R.O 53(I)/2002.— In exercise of the powers conferred by section 46 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), the National Electric Power Regulatory Authority, with the approval of the Federal Government, is pleased to make the following rules, namely:-

### THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY (FINES) RULES, 2002.

1. **Short title and commencement.**— (1) These rules may be called the National Electric Power Regulatory Authority (Fines) Rules, 2002.

(2) They shall come into force at once.

2. **Definitions.**—(1) In these rules, unless there is anything repugnant in the subject or context, –

- (a) "Act" means the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997);
- (b) "applicable documents" means the rules and regulation issued in pursuance of the Act by the Authority, from time to time, the generation, distribution and transmission licences, the grid and distribution codes and any documents, instruments, approvals or authorizations issued or granted by the Authority in exercise of its powers under the Act;
- (c) "authorization" in relation to any matter, means an authorization in writing by the Authority;
- (d) "certificate of account" means a statement of account certified by the Collector of Islamabad Capital Territory regarding the existence of the sum due;
- (e) "debt" means an ascertained or ascertainable sum payable at present or in future on the basis of a subsisting obligation but does not include a debt secured by a negotiable instrument;
- (f) "delinquent" means a person adjudged, by the Authority to be in violation of the provisions of the Act or the applicable documents;
- (g) "designated account" means a bank account opened by the Authority but which can be operated only jointly by the Authority

and the Collector for the purpose of receipt of debts and monies payable by garnishees to the delinquent which are attached in accordance with these rules;

- (h) "fees" means the sums payable to the Authority by a person in relation to a licence or authorization or for such other matters as may be specified in the applicable documents;
- (i) "fines" means financial penalties payable by a delinquent under these rules or the applicable documents;
- (j) "garnishee" means any person from whom a debt or any sum of money is due or payable to the delinquent and includes the bankers, and where applicable, the customers of the delinquent;
- (k) "recovery request" means a request by the Authority to the Collector for the recovery of the sum due as arrears of land revenue;
- (l) "Registrar" means the person appointed as Registrar by the Authority for the purposes of these rules;
- (m) "Schedule" means the Schedule to these rules; and
- (n) "sum due" means the fees, fines, charges or other sums payable to the Authority which are ascertained and determined to have become due from the delinquent to the Authority in accordance with these rules.

(2) The words and expressions used in these rules, but not defined herein shall have the same meaning as are assigned to them in the Act.

3. **Fines.**— (1) Subject to the provisions of these rules, the Authority may impose fines on a delinquent up to the maximum amounts specified in the First Schedule.

(2) In imposing any fine under sub-rule (1), the Authority shall keep in view the proportionality of the fine to the gravity of the violation.

(3) The fines prescribed in these rules or in the applicable documents shall be without prejudice to any other penalties which may be imposed under the applicable documents, and the Authority may impose the fines in addition to, or in lieu of, such other penalties.

4. **Procedure.**— (1) If any person acts or omits to act in a manner which in the opinion of the Authority constitutes violation of the provisions of the Act or the applicable documents, the Authority shall within fifteen days of

coming to know of the violation, cause the Registrar to seek an explanation from such person herein after referred to as the said person.

(2) The Registrar shall require the said person to either admit or deny the occurrence of the violation within a period of fifteen days from the receipt of the request.

(3) Where the said person admits the violation without offering an excuse the Authority may, either remit the fine or may proceed to impose the fine in accordance with these rules.

(4) Where the said person admits the violation but maintains that there were valid reasons for such violation, he shall submit a written and reasonably detailed explanation of the reasons for such violation within a period of fifteen days specified in sub-rule (2).

(5) The Authority shall examine the explanation referred to in sub-rule (4) within seven days of receipt thereof and shall, if so requested, allow the said person an opportunity of being heard in person or through an authorised representative.

(6) If the Authority accepts the explanation, it shall record the reasons for acceptance and shall order the matter closed.

(7) If the Authority rejects the explanation, it shall record the reasons for rejection and shall direct the Registrar to issue a show cause notice to the said person.

(8) Where the said person denies the occurrence of the violation but the Authority has reasonable cause to believe that the violation has in fact occurred, it shall direct the Registrar to issue a show cause notice to the said person.

(9) The show cause notice shall specify the following, namely:-

- (i) The alleged violation;
- (ii) the denial of violation by the said person or the rejection of his explanation, as the case may be;
- (iii) where the violation consists of non-payment of fees, the amount of such fees;
- (iv) the time period, not exceeding fifteen days, for the submission of a response to the show cause notice; and
- (v) the amount of fine which may be imposed.

(10) The said person shall, within the time specified in this behalf in the show cause notice, submit a written and detailed response to the show cause notice.

(11) The Authority shall examine the response to the show cause notice within a period of fifteen days from the date of receipt thereof, and may allow the said person an opportunity of being heard in person or through an authorised representative.

(12) Where the Authority accepts the response to the show cause notice, it shall record the reasons for acceptance thereof and shall order the matter closed.

(13) Where the Authority rejects the response to the show cause notice, it shall:-

- (i) record the reasons for rejection of the response;
- (ii) declare the said person to be a delinquent in terms of the declaration; and
- (iii) ascertain and determine the fine, and if such fine is payable as a result of non-payment of fees, the amount of the fees, payable by the delinquent as of the date of the decision by the Authority.

(14) The decision of the Authority under sub-rule (13) shall forthwith be communicated to the delinquent.

5. **Review.**— (1) The delinquent may, within a period of seven days from the date of receipt of the decision referred to in sub-rule (13) of rule 4, prefer an application for review to the Authority.

(2) The Authority shall, within seven days of the receipt of an application for review, take a decision as to the acceptance or rejection of such application:

Provided that, the Authority may reject the application if it is of the opinion that a review shall not result in its original decision being altered:

Provided further that the Authority shall not reject the application without giving the delinquent or its authorized representative an opportunity of being heard if the delinquent requests for such hearing.

(3) The decision in review shall be rendered within fifteen days of the acceptance of an application for review.

6. **Sum due.**— Where, after compliance with the procedure

prescribed in rules 4 and 5, any fines or fees, or both, are declared by the Authority to be payable by the delinquent, the amount of the same shall be a sum due to the Authority and shall accrue forthwith as arrears of land revenue.

7. **Notice of demand.**— (1) The Authority shall cause the Registrar to issue a notice of demand to the delinquent, demanding payment of the sum due within a period of seven days of receipt of the notice.

(2) The notice of demand shall not be sent before the expiry of the time allowed for the filing of an application for review and where such application has been filed, before the Authority has rendered its final decision on the application or the review, as the case may be.

8. **Failure to comply with the notice of demand.**—(1) Where the delinquent fails to comply with the notice of demand under rule 7 within the said period of seven days, the Authority may send forthwith a recovery request in the form as set out in the second Schedule to the Collector of the Islamabad Capital Territory.

(2) The Authority may specify in the recovery request the relevant details of any property owned by or sums payable by any garnishee to the delinquent which may be sold or attached for purposes of payment of the sum due in accordance with section 83 of the Punjab Land Revenue Act, 1967 (W.P. Act XVII of 1967).

(3) The Collector shall, within seven days of the receipt of the recovery request, prepare a certified account based on the recovery request and shall within the same period—

- (a) serve a notice of demand, the certified account and the recovery request on the delinquent or its agent where the delinquent resides or carries on business itself or through other persons within the territorial jurisdiction of the Collector of the Islamabad Capital Territory; and
- (b) where the delinquent does not reside or carry out business itself or through other persons within the territorial jurisdiction of the Collector of the Islamabad Capital Territory, forward the notice of demand, recovery request and the certified account to the Collector with necessary jurisdiction, for service within a further period of seven days on the delinquent or its agent.

(4) A certified account shall be prepared and certified by the Collector of the Islamabad Capital Territory himself and he shall rely for this purpose exclusively on the details provided in the recovery request.

(5) A Collector of any other territory within jurisdiction over the delinquent to whom a notice of demand, recovery request and the certified account are sent in accordance with sub-clause (b) of sub-rule (3) shall rely exclusively on the certified account prepared by the Collector of Islamabad Capital Territory under sub-rule (4).

(6) Where the delinquent does not comply with the notice of demand served by the Collector within a period of fifteen days, the Collector shall forthwith pass orders directing the attachment or sale of the properties of, or sums payable by any garnishee to, the delinquent, specified in the recovery request.

(7) Where the property specified in the recovery request consists of sums payable to the delinquent by any garnishee, the Collector shall, along with the order under sub-rule (6), prohibit the garnishee from paying the debts or monies to the delinquent and shall through the same order also direct the garnishee to pay forthwith the debts or the monies, not exceeding the amount of the sum due, into the designated account.

(8) The payment by any garnishee in accordance with sub-rule (7) shall constitute valid discharge, to the extent of the amount of the sum paid, of the obligation of the garnishee to pay such sum to the delinquent.

(9) Upon receipt of the sum due by the Authority through recovery thereof as arrears of land revenue, the delinquent shall be discharged of his obligation to pay the sum due.

(10) Where the Authority is unable to identify in the recovery request properties of, or debts or monies payable to, the delinquent, the Collector shall issue a proclamation in two national daily newspapers to the effect that all debts or monies payable to the delinquent shall not be paid to the delinquent but shall instead be paid into the designated account.

(11) When the debts or monies received in the designated account pursuant to the proclamation under sub-rule (10) are sufficient for the payment of the sum due, the Collector shall cause a withdrawal of the proclamation to be published in the same newspapers through which the proclamation was issued.

(12) The expenses of the proclamation and withdrawal thereof shall be added to the sum due and shall be recoverable as such from the delinquent, provided that the Authority may pay such expenses pending the recovery thereof from the delinquent.

(13) A proclamation issued under sub-rule (10) shall include a notice that persons violating the same shall be liable in the same manner as persons violating the orders of attachment and sale of movable property under the decree of a Revenue Court, as defined in the Punjab Land Revenue Act, 1967 (W.P. Act XVII of 1967).

(14) The monies received in the designated account from time to time shall be payable forthwith to the Authority until such time the sum due is satisfied, after deduction of two per cent commission by the Collector in respect of the sums paid.

(15) Any monies received in the designated account in excess of the sum due shall be paid to the delinquent.

**The First Schedule**  
[See rule 3(1)]

PART I

<b>Sr. No.</b>	<b>Description of violation.</b>	<b>Fine for the first day of occurrence of violation.</b>	<b>Fine * for continue violation beyond th first day.</b>
(1)	(2)	(3)	(4)
1.	Generation, transmission or distribution of electric power without obtaining a licence from the Authority.	Rs.1,000,000/-	Rs.50,000/- per day.
2.	Breach of any provision of a licence or authorization.	Rs.300,000/-	Rs.10,000/- per day.
3.	Breach of any provisions of an applicable document.	As may be prescribed in the applicable document.	As may be prescribed in the applicable document.
4.	Charging of tariffs not approved by the Authority.	Rs.300,000/-	Rs.10,000/- per day.
5.	Any other violation not expressly provided for in these rules or the applicable documents.	Rs.300,000/-	Rs.10,000/- per day.

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\* to be calculated from the date of violation up to the date of payment of sum due, but excluding the period prescribed in the rules during which the proceedings are pending before the Authority up to the date of the final order, including the order in review.

## PART II

### INDEXATION OF FINES

1. The fines prescribed under Part I of the First schedule shall be indexed to the Consumer Price Index (CPI) published from time to time by the Federal Bureau of Statistics.
2. The indexation shall be done on the basis of the most recent CPI prevailing on the date of determination of the fine by the Authority, and the fine payable on the date of determination under sub-rule (13) of rule 3 shall be increased or decreased, as the case may be, in accordance with the following formula, namely:-

$$F_{pd} = F_t \left[ \frac{CPI_{pd}}{CPI_{rd}} \right]$$

Where

$F_{pd}$  = The actual fine payable on the date of determination.

$F_t$  = The respective fine set out in Part I of this Schedule.

$CPI_{pd}$  = The most recent CPI prevalent on the last day of the month immediately preceding the month in which the determination of fine is made by the Authority.

$CPI_{rd}$  = The reference or base CPI, prevalent on the last day of the month in which the National Electric Power Regulatory Authority (Fines) Rules, 2002, are notified in the official Gazette.

**The Second Schedule**

[See rule 8(1)]

FORM OF RECOVERY REQUEST

**issued under**

**The National Electric Power Regulatory Authority (Fines) Rules, 2002**

To  
The Collector  
Islamabad Capital Territory.

The National Electric Power Regulatory Authority has in its determination dated [ ] declared [ ] a delinquent and has ascertained a sum of Rs.[ ] being the sum due from the delinquent to the Authority. The notice of demand under rule 7 was issued to the delinquent on [ ] but remains unsatisfied todate.

Now, therefore, the Authority hereby requests you to issue a notice of demand to the delinquent in accordance with sub-rule (3) of rule 8 of the National Electric Power Regulatory Authority (Fines) Rules, 2002.

In the event the notice of demand issued by yourself remains unsatisfied after fifteen days thereof, you are further requested to forthwith pass an order for the attachment and sale of the properties of, and the debts and monies due to, the delinquent as specified in the Annex hereto/issue a proclamation under sub-rule (10) of rule 8, on account of the Authority being unable to identify the properties of, or the debts and monies due to, the delinquent<sup>1</sup> .

The details of the designated accounted for receipt of the sum due are as follows:-

Date \_\_\_\_\_

\_\_\_\_\_  
Registrar

**ANNEX**

The details of the properties of, and the debts and monies due to, the delinquent are as follows:-

(Mahjoob Ahmad Mirza)  
Director (Administration)

\_\_\_\_\_  
No. NEPRA-DD(PUB)/7/2002 dated 19-01-2002

\_\_\_\_\_  
<sup>1</sup> delete as appropriate