



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.nepa.org.pk, E-mail: registrar@nepa.org.pk

No. NEPRA/DG(M&E)/LAD-05/ 5227

April 09, 2025

Chief Executive Officer,
Lahore Electric Supply Company Ltd. (LESCO),
22-A, Queens Road,
Lahore.

SUBJECT: ORDER OF THE AUTHORITY IN THE MATTER OF REVIEW PETITION
FILED BY LESCO AGAINST ORDER IN THE MATTER OF SHOW CAUSE
NOTICE ISSUED TO LESCO UNDER SECTION 27B OF THE NEPRA ACT
READ WITH OTHER RELEVANT RULES & REGULATIONS OF THE NEPRA
ACT, ON ACCOUNT OF FATAL ACCIDENTS OCCURRED IN LESCO DUE
TO MOONSOON SPELLS IN JULY 2023

Please find enclosed herewith, the Order of the Authority (total 18 page) in the subject matter for information and compliance.

Enclosure: As above


(Wasim Anwar Bhinder)



National Electric Power Regulatory Authority

ORDER

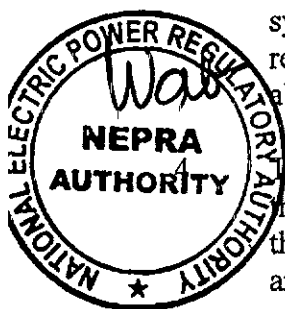
**IN THE MATTER OF REVIEW PETITION FILED BY LESCO AGAINST ORDER
IN THE MATTER OF SHOW CAUSE NOTICE ISSUED TO LESCO UNDER
SECTION 27B OF THE NEPRA ACT READ WITH OTHER RELEVANT RULES &
REGULATIONS OF THE NEPRA ACT, ON ACCOUNT OF FATAL ACCIDENTS
OCCURRED IN LESCO DUE TO MONSOON SPELLS IN JULY 2023.**

1. This order shall dispose of the review proceedings initiated in the matter of review petition filed by Lahore Electric Supply Company Limited (LESCO) (hereinafter referred to as the "Licensee") under Regulation 3 of the National Electric Power Regulatory Authority (Review Procedure) Regulations, 2009 (hereinafter referred to as the "Review Regulations") against the decision of the Authority dated August 09, 2024, (the "Impugned Decision"), in the matter of Show Cause Notice issued to the Licensee on account of fatal accidents (01 employee and 08 public) occurred during monsoon spells in July 2023, thereby failure to comply with Section 21(2)(f) of the NEPRA Act, Article 11 of the Distribution Licence read with Rule 4(g) of the NEPRA Performance Standards (Distribution) Rules, 2005, Clause 4 of the Safety Requirements of Distribution Code, Clauses DDC 3 & 4 of Design Code of Distribution Code, Clause PR 1 of Protection Requirements of Distribution Code, Clauses PSC 1, PSC 2 and PSC 6.3 of Power Safety Code and Chapter 12 of Consumer Service Manual and other relevant provisions of applicable documents.
2. The Licensee was granted a Distribution License (No. DL/03/2023 dated 09/05/2023) by the National Electric Power Regulatory Authority (the "Authority") for providing Distribution Services in its Service Territory as stipulated in its Distribution License, pursuant to section 21 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 ("NEPRA Act").

Background:

3. It was reported that there were severe storms and heavy rainfall in Lahore on 05.07.2023, and onwards. As a consequence, trees toppled onto electricity wires/conductors, leading to the breaking of conductors and the collapse of HT/LT poles, which resulted in numerous electrocution cases within the service territory of the Licensee. The Authority while taking stern notice of such fatalities observed that the Licensee has not taken appropriate measures to up-grade/rehabilitate its distribution system and prevent fatal accidents. The incidents have raised serious concerns regarding the safety and effectiveness of the Licensee's distribution network and its ability to supply electricity while fully adhering to its statutory and license obligations.

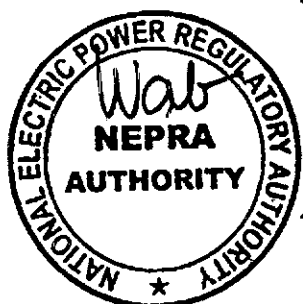
The Authority, after detailed deliberations upon the matter, was of its considered view that the incidents need to be thoroughly investigated in order to ascertain the causes for the incidents and ensure that responsibility/accountability for the incidents to be fixed and appropriate legal actions to be taken against the entity responsible i.e., the Licensee.



5. Therefore, the Authority ordered an investigation of the incident under section 27A of the NEPRA Act, 1997, which appears to have occurred due to violation of the NEPRA Act, Rules, Regulations, Codes, Standards, Criteria, Manuals, and other applicable documents and conditions of its Distribution License by the Licensee. A notice regarding the investigation and constitution of the Investigation Committee (IC) in the matter was issued to the Licensee under section 27A of the NEPRA Act vide dated 12.07.2023.
6. The IC visited the Licensee's Head Office, Lahore on 14.07.2023 and conducted the investigation of seven (07) fatal accidents for public persons as per the list provided by the Director (HSE), of the Licensee.
7. Later on, there was a second spell of monsoon started on 19.07.2023 and unfortunately, five (05) more fatalities (01 Employee and 04 Public Persons) were reported. The Authority took notice and directed IC to also investigate these cases and club the same with already investigated incidents under the same approved TORs. Accordingly, the Licensee was intimated through a notice dated 01.08.2023, and IC conducted the investigation of the same.
8. Overall, IC investigated a total number of 12 fatalities (01 Employee and 11 Public Persons) during the month of July 2023. Accordingly, IC submitted the report on 13.09.2023, based on facts and findings.
9. Based on the analysis and findings of the investigation Report, the Authority decided to issue a Show Cause Notice (SCN) to the Licensee under Section 27B of the NEPRA Act, 1997 because out of 12 fatalities, 09 fatalities (01 employee & 08 public) have occurred due to negligence of the Licensee as the Licensee has failed to construct, maintain and operate its distribution facilities in accordance with the NEPRA Act, rules, regulations, and codes made thereunder and its license terms and conditions more particularly Section 21 (2) (f) of NEPRA Act, Article 11 of its Distribution License, Rule 4 (g) of Performance Standards (Distribution) Rules 2005, SR 4 - Safety Requirements of Distribution Code, DDC 2.2, DDC 3 & DDC 4 - Design Principles - Distribution Design Code, SC 1 of System Construction Code of Distribution Code, PSC 1, PSC 2 & PSC 6.3 of Power Safety Code and Chapter 12 of Consumer Service Manual and other relevant provisions of applicable documents.
10. Accordingly, a SCN was issued to the Licensee on October 23, 2023, under Section 27B of the NEPRA Act, 1997. The said SCN, interalia, read as under;

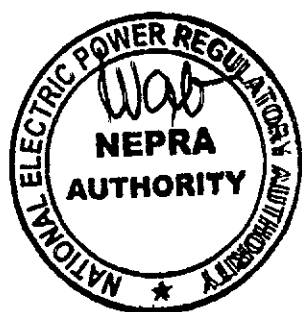
3. *"WHEREAS, the Authority, in exercise of its functions and duties as entrusted upon it under the NEPRA Act, initiated investigation under Section 27(A) of the NEPRA Act and constituted an Investigation Committee to investigate into fatal accidents in the Licensee's service territory occurred in July 2023 due to Monsoon Spells.*

4. *WHEREAS, the investigation was concluded vide Investigation Report dated September 08, 2023, (hereinafter referred to as the "Investigation Report") which is attached as Annex A; and*



[Handwritten signature]

5. **WHEREAS**, in terms of the Investigation Report, a total of twelve (12) fatalities occurred in the Licensee's territory during the month of July 2023. It was revealed during the investigation that apparently, nine (09) fatalities were resulted due to lack of earthing, leakage of current, deteriorated distribution system, design fault, improper protection system, less clearance of HT lines, and lack of safety measures/culture by the Licensee. The Authority also observed that even in those cases where the IC has observed negligence on part of other persons, it appears that further improvement is required in the procedures and system of the Licensee. Therefore, the Licensee is directed to explain its position with regard to those cases as well and the steps taken by it for further improvement; and
6. **WHEREAS**, in terms of the Investigation Report, it revealed that numerous fatalities occurred due to leakage of current in HT/LT poles of distribution network of the Licensee. These poles/structures either lacked earthing or their earthing was ineffective and therefore, could not prevent electrocution due to leakage of current and resulted in the fatal accidents of Mr. Muhammad Ehtisham, Unknown (Female), Mr. Matloob Hussain, Mr. Zubair, and Mr. Faizan. In case of Mr. Muhammad Ehtisham and Mr. Matloob, the earthing of the Steel Structure was ineffective which led to their fatalities. Similarly, in case of Unknown (Female), if the Licensee is using the street light pole to support its lengthy PVC cables, it should have ensured the earthing of that pole in order to avoid any fatal/non-fatal accident due to leakage of current. Further, in the case of Mr. Zubair and Mr. Faizan, if the earthing of the LT structure was ensured, there would have been a chance to save precious human lives despite the fact that the repair work was substandard by the construction team and lack of supervision by operational team. In addition, there was no proper handing/taking over of system was carried out between construction and operation departments after completion of work, and supply was restored which caused the electrocution of these two children. It is a statutory obligation of the Licensee to ensure that its distribution facilities do not cause any leakage of electrical current. Apparently, the Licensee is not following the principles and parameters set for prudent utility practices for the design of distribution network as laid down in the NEPRA Performance Standards (Distribution) Rules, Distribution Code, and Consumer Service Manual. Therefore, the Licensee is in violation of Section 21(2)(f) of the NEPRA Act, Article 11 of the Distribution Licence read with Rule 4(g) of the NEPRA Performance Standards (Distribution) Rules, 2005, Clause 4 of the Safety Requirements of Distribution Code, Clause PR 1 of Protection System Requirements of Distribution Code, Clause DDC 4 of Design Code of Distribution Code and Chapter 12 of Consumer Service Manual; and
7. **WHEREAS**, in terms of Investigation Report, it appears that, at various sites, the Investigation Committee observed faulty and deteriorated HT/LT system of the Licensee. In some cases, either protection devices were inoperative or in dilapidated condition and failed to isolate the HT/LT system in case of breaking/falling of conductors which caused



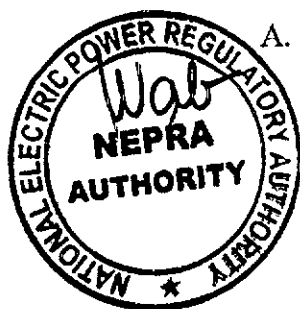
leakage of current as observed in the cases of Mr. Muhammad Usman and Mr. Kashif. In case of Mr. Muhammad Usman, the conductor was in dilapidated condition which led to its breakage, falling on ground, and subsequently death of the victim. Similarly, in case of Mr. Kashif, the lengthy PVCs were used to supply electricity to the houses against the SOPs, which were broken and led to the fatality of the deceased. Apparently, the Licensee is failed to discharge its statutory obligation to maintain safety standards and ensure that its protection system operates on time to prevent leakage of current, therefore, the Licensee has contravened Section 21(2)(f) of the NEPRA Act, Article 11 of the Distribution Licence read with Rule 4(g) of the NEPRA Performance Standards (Distribution) Rules, 2005, Clause 4 of the Safety Requirements of Distribution Code, Clause PR 1 of Protection System Requirements of Distribution Code, Clause DDC 3 of Design Code of Distribution Code and Chapter 12 of Consumer Service Manual; and

8. **WHEREAS**, in terms of Investigation Report, it appears that the houses have been constructed directly below the 11 kV Line. Particularly, in the case of Mr. Saifullah, the fatality of the victim occurred due to coming in contact with the 11kV line which was dangerously close to the roof of the victim's neighbor's house. The same serious safety hazard is also present in many nearby houses. It is the prime responsibility of the Licensee to take notice of such constructions near/below its distribution/transmission lines to avoid any safety hazard. As the Licensee could not produce any substantial evidence showing that efforts were made to prevent such illegal constructions below the HT lines which were constructed long ago. The documents provided in this regard are either very recent. Therefore, the Licensee has prima facie failed to prevent construction of buildings vertically below the HT lines which have unsafe clearance with respect to the existing lines which ultimately led to this fatal accident. Therefore, the Licensee has, contravened Section 21(2)(f) of the NEPRA Act, Article 11 of the Distribution Licence read with Rule 4(g) of the NEPRA Performance Standards (Distribution) Rules, 2005, Clause 4 of the Safety Requirements of Distribution Code, DDC 2.2, DDC 3 of Design Code of Distribution Code, SC 1 of System Construction Code of Distribution Code, and Chapter 12 of Consumer Service Manual; and
9. **WHEREAS**, in terms of Investigation Report, it appears that the fatality of Mr. Khalid Bajwa (LM-II) occurred due to lack of safety measures/culture in the Licensee's service territory. The root cause of the accident was casual attitude, risky decisions, supervisory lapses, carelessness, unprofessional behavior, and non-compliance with safety-related operating procedures by the Licensee's staff. Failure to ensure the issuance of PTW, using improper PPE, and lack of supervision of work under safety precautions at the worksite are also contributing factors to this accident. Moreover, execution of work in an unplanned and haphazard manner is also reason for the fatal accident. Pursuant to performance standards laid down for the distribution licensees, the Licensee is required to implement suitable, necessary, and appropriate rules, regulations, and working practices, as outlined in the Distribution



Code or applicable documents, to ensure the safety of its staff and members of the public. This shall also include suitable training for familiarity and understanding of the rules, regulations, practices, and training to use any special equipment that may be required to create awareness among employees and inculcate safety environment. Hence, the Licensee has, failed to comply with Section 21(2)(f) of the NEPRA Act, Article 11 of the Distribution Licence read with Rule 4(g) of the NEPRA Performance Standards (Distribution) Rules, 2005, Clause 4 of the Safety Requirements of Distribution Code, Clauses DDC 3 & 4 of Design Code of Distribution Code, Clause PR 1 of Protection Requirements of Distribution Code, Clauses PSC 1, PSC2 and PSC6.3 of Power Safety Code; and"

11. The Licensee submitted its response vide its letter dated January 04, 2024, against the SCN served. Moreover, the Authority considered the response of the Licensee and decided to provide an opportunity for a hearing to the Licensee under NEPRA (Fine) Regulations, 2021, before further proceeding in the matter. Accordingly, the said hearing was held on January 30, 2024, wherein, the CEO of the Licensee along with his team participated and made their submissions.
12. Keeping in view the submissions of the Licensee, the evidence available on record, and provisions of relevant NEPRA laws and terms and conditions of distribution license issued to the Licensee, the Authority rejected the response of the Licensee against the served Show Cause Notice dated August 30, 2023, and imposed a fine of PKR 23,000,000/- (Twenty-three Million) on the Licensee on account of fatal accidents (01 employee and 08 public) occurred during monsoon spells in July 2023, on failure to comply with Section 21(2)(f) of the NEPRA Act, Article 11 of the Distribution Licence read with Rule 4(g) of the NEPRA Performance Standards (Distribution) Rules, 2005, Clause 4 of the Safety Requirements of Distribution Code, Clauses DDC 3 & 4 of Design Code of Distribution Code, Clause PR 1 of Protection Requirements of Distribution Code, Clauses PSC 1, PSC2 and PSC6.3 of Power Safety Code. Moreover, the Authority directed the Licensee to give compensation to the families of the deceased public persons equal to the amount being given to its employee's family and provide jobs to their next of kin. Accordingly, an Order of the Authority was issued on August 09, 2024 (Impugned Order).
13. Being aggrieved with the impugned order, the Licensee vide its letter dated September 09, 2024, filed the Motion for Leave for Review (MLR) against the impugned order of the Authority dated August 09, 2024: The grounds submitted by the petitioner in its MLR are as follows:



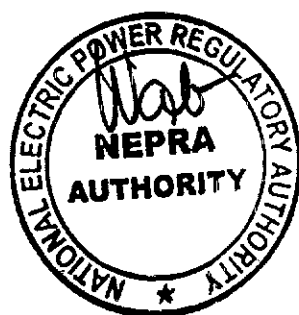
- A. That the Impugned Order is unwarranted, without jurisdiction, and has been passed in complete derogation of the applicable framework. In this respect, it may be noted that the Impugned Order has been passed in purported exercise of power under Section 27B of the NEPRA Act. Section 27B of the NEPRA Act stipulates that:

"27B. Penalty for default or contravention. – Any person who acts in contravention of this Act or the rules and regulations made thereunder or fails to comply with the conditions of a licence issued or registration granted to that person and such person is a party to such contravention shall be punishable in case of—

(a) a company, with a minimum fine of ten million Rupees which may extend to two hundred million Rupees, and, in the case of a continuing default, with an additional fine which may extend to one hundred thousand Rupees for every day during which the contravention continues; and ...

Provided that a fine shall only be imposed under this section after providing reasonable opportunity of being heard to the person alleged to be in contravention...

- B. That Section 27B clearly stipulates that actions thereunder can be initiated for a contravention of the provisions of the NEPRA Act or the rules and regulations made thereunder or failure to comply with the conditions of a licence. The Impugned Order, however, fails to identify any provision of the NEPRA Act, rules, regulations which has been contravened by the Petitioner or any terms of the licence, which the Petitioner has failed to comply with which led to happening of the unfortunate accidents. Not even causal analysis has been undertaken. Instead, the Impugned Order makes obscure references to various irrelevant provisions of the NEPRA Act and the regulatory framework laid down thereunder. It is settled law that a show cause notice or an order must elucidate, in sufficient detail, the nature and scope of allegations embodied therein and further identify the precise provisions of law which allegedly stand violated pursuant thereto. In this regard, neither the Impugned Order as well as the SCN identify any provisions of the NEPRA Act or rules and regulations made thereunder or terms of the Distribution License, which the Petitioner purportedly contravened resulting into the unfortunate accident, nor elucidate in sufficient detail the facts, or acts which constitute a violation. In light of the above, the Impugned Order is liable to be set aside as they fail to even meet the basic ingredients of Section 27B of the NEPRA Act.
- C. That the Impugned Order is a non-speaking order as it fails to give any reasons/rationale in support thereof and address the submissions advanced by the Petitioner. In this respect, it is submitted that the Impugned Order is without any evidential basis and fails to consider the relevant facts, more particularly that the Petitioner took all requisite steps under the applicable framework. The Authority has not even attempted to consider and respond to any of the explanations furnished by the Petitioner in terms of the Reply to the SCN. Section 24A of the General Clauses Act, 1897, mandatorily requires a person taking any action or passing an order to exercise his powers reasonably, fairly, justly, and by way of a reasoned order. Such order can only be judiciously given through an independent and unbiased application of the mind to the facts of the case resulting in a speaking order covering the pleas of both sides. Admittedly, the Impugned Order violates this binding legal dictate. Any order affecting the rights of citizens that does not conform to these standards is liable to be said aside.
- D. That, it is further submitted that it has been the stance of the Petitioner throughout that it unwaveringly adheres to and is committed to ensuring compliance with the NEPRA Act, Rules, Regulations and the relevant applicable documents made thereunder and that the root causes of the fatal accidents stem from either extreme unprecedented weather conditions beyond the Petitioner's control or individual acts and omissions that cannot be attributable to the Petitioner in any manner whatsoever. It is a matter of record that the employee's accident occurred due to working carelessly and in haste, and in the absence of any permission to work. On the other hand, majority of the accidents involving the general public happened



because of extreme and unprecedented weather conditions or actions solely attributable to the concerned individuals. The Petitioner cannot be held responsible for the actions/omissions of the individuals, particularly where the Petitioner had no role in happening of the accidents. The Petitioner exhaustively explained the reasons which led to happening of the unfortunate accidents, however, the same have been ignored in the Impugned Order. Perusal of the Impugned Order reveals that same is largely a reiteration of the findings of the inquiry committee, with no independent application of mind. The Petitioner's distribution network and operational systems were not the primary causes of these incidents. By relying on the IC's findings that there was no proper earthing and leakage of current in the structures without applying its own independent application of mind, the Authority has passed the Impugned Order in a slipshod and mechanical manner. The Petitioner cannot be saddled by the Authority with the liability and responsibility for the actions of others or for matters which were beyond the Petitioner's control. In view thereof, the Impugned Order is liable to be reviewed and set aside.

- E. That, without prejudice to the above, it is further submitted that the Impugned Order also fails to appreciate that the city of Lahore saw unprecedented rainfall during the month of July 2023, which broke almost forty-year records. It is common knowledge but also important to emphasize that the entirety of Lahore's drainage system was also negatively impacted by the unusually unprecedented high rainfall, which caused stagnant water to build up throughout the city and clogged the WASA's drainage system. Such extraordinary occurrences have the potential to interfere with people's everyday lives and safety. It is also crucial to emphasize that the aforementioned catastrophes only happened on July 5, 6, 19, and 20 due to the unusual and uncontrolled weather. This is important because, if there had been any problems or flaws in the Petitioner's distribution system that could have caused these kinds of incidents, they would have shown up at other times and not just on days with lots of rain and standing water. The absence of accidents following the aforementioned dates is a clear indication that the Petitioner's distribution network is operating well in both ordinary and non-extreme weather situations. It further confirms that these incidents were not a sign of any underlying network problems or any negligence or fault of the Petitioner, but rather were a regrettable result of the intense and unpredictable weather. In addition to the above, it is also pointed out that the Petitioner also undertook its detailed internal inquiries, and where any negligence of the concerned official was established, it undertook appropriate disciplinary action against that individual, which also shows the Petitioner's resolve to avoid these accidents. However, the Impugned Order also ignores the actions taken by the Petitioner in relation to these accidents.

- F. That the Petitioner operates under the auspices of the law, the NEPRA Act, Rules and Regulations made thereunder, and the applicable documents. It acts strictly in accordance thereto. If the Authority wishes to raise any allegations, it must establish and prove through cogent evidence that the Petitioner had been negligent and/or careless. The Authority has also failed to prove the causal relationship necessary to show that the acts that led to the fatalities and the Petitioner's alleged failure to meet any Health and Safety Environment ("HSE") standards were linked to each other. No responsibility can also be attributed to the Petitioner in the event of force majeure or an accident happens due to the individual's own negligence. It cannot be said that those accidents happened as a result of the Petitioner since there is nothing on the record for the Authority to show that any of the fatal accidents occasioned due to



acts or omissions done by the Petitioner's employees in the ordinary course of theft business. Resultantly, the Petitioner did not, by any stretch of the imagination, put its employees or the public at large in such a position that it would be susceptible to risk or harm. In the absence of proving any tort/delict on the part of the Petitioner, the Impugned Order is liable to be reviewed and set aside.

G. That without prejudice to the above, it is a settled principle of law that a penalty must be commensurate with the alleged breach. In the present case, it is a matter of record that the unfortunate accidents occurred due to extreme weather conditions or negligence of the concerned individuals. As far as the Petitioner's part is concerned the record also establishes that the Petitioner actively undertook various steps to avoid/minimize the unfortunate accidents. In this respect, it may be noted that:

- a. The Petitioner adopted the LESCO 2022 Safety Manual ("2022 Safety Manual") which incorporates best industry practices and is consonant with the NEPRA Act, Rules, Regulations, and relevant applicable documents. The 2022 Safety Manual was shared with and subsequently approved by NEPRA on 16.06.2022.
- b. Pursuant to the 2022 Safety Manual, the Petitioner's HSE Directorate has actively conducted HSE Training in FY22-23.
- c. The Petitioner's HSE Directorate organizes trainings of the relevant staff on a regular basis to train them about health and safety protocols and standard operating procedures to undertake any work.
- d. The Petitioner's HSE Directorate has also adopted the use of visual imagery to show what the minimum safety gear is required by a Lineman to wear during the course of their duties.
- e. Owing to this meticulous commitment and adherence to HSE, the Authority itself in its HSE Performance Evaluation Report dated 29.05.2024 has noted that the Petitioner's HSE points had gone up from 63 in 2021-22 to 81 in 2022-23, accordingly placing the Petitioner in the "Outstanding" category when it came to compliance with HSE standards.

H. That, in addition to the above, the Authority has failed to note that the Petitioner has been making concrete efforts to improve its distribution system to ensure safe and reliable supply of electricity to approximately 30 million consumers and is taking measures on a war-footing basis to ensure the safety of its employees and the general public. Additionally, the Petitioner brought on record that it was diligently holistically enforcing:

- a. Comprehensive safety standard operating procedure(s) ("SOPs") that are not only meticulously designed but also easy to implement, ensuring that safety measures are practical and accessible to all.
- b. Quick impact safety training ("QIST") programs for supervisory staff (Line Superintendents & SDOs).



82

- c. Behavior based Trainings for Line Staff that are geared towards instilling a heightened sense of personal responsibility and safety consciousness among the Petitioner's employees.
 - d. A balanced approach by incentivizing line staff through recognition and, when necessary, disciplinary actions to deter safety violations.
 - e. Safety audits, surprise site checks, and safety calls to check the implementation of safety SOPs are integral components of the Petitioner's comprehensive safety management system.
 - f. Elimination of hazards and unsafe conditions, and proactively identifying and rectifying potential risks to create a safer working environment.
- I. That even otherwise and without prejudice to the Petitioner's stance above, it is submitted that the SCN and the Impugned Order is without jurisdiction and is ultra vires the Fine Regulations. In this regard, the following may be noted: -
- a. That the Authority's power to impose penalty for any default or contravention is circumscribed in terms of Section 27B of the NEPRA Act, which can only be exercised after providing a reasonable opportunity of hearing.
 - b. In this respect, the Authority has issued the Fine Regulations under Section 47 of the NEPRA Act to lay down "...the manner and procedure of show cause notices..."; which provides a detailed procedure for issuance of a show cause notice. Authority bore a mandatory legal obligation to satisfy express prescriptions of Regulation 4 of the Fine Regulations, prior to, inter alia, issuing the SCN.
 - c. Admittedly, the Authority has failed to satisfy the conditions necessary for exercising its purported powers under the Fine Regulation, including, inter alia, Regulation 4(1) to Regulation 4(7). Per Regulation 4(1) of the Fine Regulations, if any person acts or omits to act which in the opinion of the Authority constitutes violation of the NEPRA Act and applicable documents, the Authority "...shall within fifteen (15) days of coming to know of the violation, cause the Registrar to seek an explanation from such person..."
 - d. Per Regulation 4(9) of the Fine Regulation, the show cause notice is to specify, inter alia, the "...alleged violation..." and "...the denial of violation by the said or the rejection of his violation..."
 - e. It is a matter of record that no such explanation was ever sought from the Petitioner prior to the issuance of the SCN. Thus, the Authority failed to satisfy the mandatory conditions for issuance of the SCN.
 - f. Further, Regulation 4(8) of the Fine Regulations empowers the Authority to issue the SCN, only after it had demonstrable 'reasonable cause to believe that the violation (alleged against the Petitioner) had in fact occurred.



However, the SCN lacks any application of mind let alone assigns reasonable cause to believe there has been a violation.

- g. Consequently, the SCN was issued in violation of Regulation 4 of the Fine Regulations, and is, without jurisdiction, ultra vires the applicable laws and liable to be dismissed. It is settled principle of law that any superstructure based on illegal act and proceedings taken in pursuance thereof are also liable to be struck down.”

14. A hearing in the matter of MLR was held on November 21, 2024, wherein, the CEO of the Licensee along with his team made the following submissions.

- i. In the instant case, 23 Million fine has been imposed on LESCO on account of fatal accidents, and in the second part of the order, the Authority directed LESCO to provide compensation to the public persons equal to the amount given in case of its employees.
- ii. LESCO as a Distribution Licensee is fully bound to follow Performance Standards, set by the Authority. However, at the same time, the Authority shall also specify the industry standards and uniform code of conduct.
- iii. As per Section 27B of the NEPRA Act, any person who acts in contravention of the Act or the Rules and Regulations made thereunder or fails to comply with the conditions of a license issued and such person is a party to such contravention shall be punishable ...
- iv. There is no procedure of penalty in the Act, however, the procedure has been made in NEPRA Fine Regulations.

As per section 47 of the NEPRA Act, the Regulations are to be made and all the Regulations are made under this section.

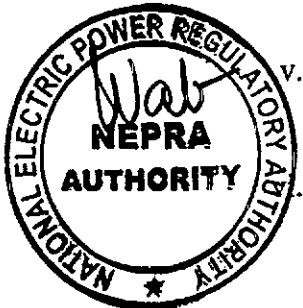
As per NEPRA Fine Regulations, the Authority is bound to have an Inquiry or to issue an Explanation. After the inquiry, the matter is to be put before the Licensee to apprise about the violations. Therefore, the response of the Licensee must be acquired. However, in the instant case, a direct Show Cause Notice has been issued by the Authority.

15. **Findings/Analysis:**

NEPRA Act and distribution license issued to all distribution companies impose a statutory obligation on the distribution licensees to follow safety standards laid down by the Authority. In this regard, reference is made to Section 21 of the NEPRA Act and Article 11 of the distribution license of the Licensee:

Section 21(2) (f) NEPRA Act

The Licensee shall follow the performance standards laid down by the Authority for distribution and transmission of electric power, including safety, health and



Q2/1

environmental protection instructions issued by the Authority or any Governmental agency;

Article 11 Distribution License - Compliance with Performance Standards

Compliance with Performance Standards – The Licensee shall conform to the relevant Performance Standards as may be prescribed by the Authority from time to time.

15.1. LACK OF EARTHING/LEAKAGE OF CURRENT/DESIGN FAULT/ DETERIORATED DISTRIBUTION SYSTEM/IMPROPER PROTECTION SYSTEM/DESIGN FAULT/LESS CLEARANCE OF HT LINES/ LACK OF SAFETY MEASURES/CULTURE.

NEPRA Performance Standards (Distribution) Rules

Rule 4(g), Overall Standards 7-Safety

- (i) All distribution facilities of a distribution company shall be constructed, operated, controlled, and remained in a manner consistent with the applicable documents.*
- (ii) A distribution company shall ensure that its distribution facilities do not cause any leakage of electrical current or step potential beyond a level that can cause harm to human life, as laid down in the relevant IEEE/IEC Standards; prevent accessibility of live conductors or equipment; and prevent development of a situation due to breakdown of equipment which results in voltage or leakage current that can cause harm to human life, property and general public including without limitation, employees and property of the distribution company.*
- (iii) A distribution company shall implement suitable, necessary, and appropriate rules, regulations and working practices, as outlined in its Distribution Code or applicable documents, to ensure the safety of its staff and members of the public. This shall also include suitable training for familiarity and understanding of the rules, regulations, practices, and training to use any special equipment that may be required for such purposes including without limitation basic first aid training.*

Distribution Code

DDC 3 DESIGN PRINCIPLES

3.1 Specification of Equipment, Overhead Lines and Underground Cables

- a. The principles of design, manufacturing, testing and installation of Distribution Equipment, overhead lines and underground cables, including quality requirements, shall conform to applicable standards such as IEC, IEEE, Pakistan Standards or approved current practices of the Licensee.*
- b. The specifications of Equipment, overhead lines and cables shall be such as to permit the Operation of the Licensee Distribution System in the following manner;*
 - i. within the safety limits as included in the approved Safety Code of the Licensee or the relevant provisions of the Performance Standards (Distribution);*



DDC 4, Design Code- Earthing

.....The earthing of a distribution transformer, the neutral and body of the transformer should be connected to ground rods as per IEC and PSI Standards Design Specifications. Earthing of Consumer Service and its meter shall be as per design standards adopted by the Licensees; and consistent with IEC, and IEEE Standards. The earth resistance of the distribution transformers and HT/LT structures/poles shall not be more than 2.5Ω and 5Ω respectively.

SR 4, Safety Management Criteria

- a.
- b. A distribution company shall ensure that its distribution facilities do not cause any leakage of Electrical Current or Step Potential beyond a level that can cause harm to human life, as laid down in the relevant IEEE/IEC Standards; prevent accessibility of live conductors or equipment; and prevent development of a situation due to breakdown of equipment which results in voltage or leakage current that can cause harm to human life, property and general public including without limitation, employees and property of the distribution company.
- c.

PR 1 Protection System Practices and System Co-ordination

The Licensee shall follow suitable and necessary provisions regarding protection system practices and co-ordination such as the following but not limited to achieve the aims of proper functioning of the distribution system of the Licensee at all times:

-
- h. Provide protective earthing devices.
-

Power Safety Code

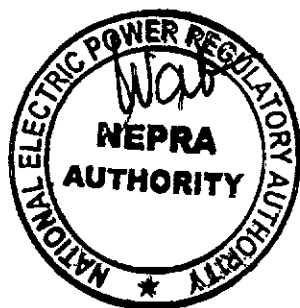
PSC-1 Purpose:

The purpose of this safety code is to ensure that the licensee's networks are planned, developed, operated and maintained in an efficient & safe way without compromising on safety of any kind related to the systems, personnel & others.

PSC-2 General Instructions of Power Safety:

The licensee shall abide by the safety requirements as set out in Power Safety Code, Distribution Code, Power Safety Manual, Performance Standards (Distribution) Rules 2005, Grid Code & other applicable documents.

The licensee shall promote a healthy & safe culture and provide all employees, contractors, and the people concerned and the public with a safe & healthy place to work. The Licensee shall ensure that safe working



is integrated into every aspect and area of business. Moreover, safety culture shall be based on personal leadership, collaboration and involvement.

The licensee shall adhere to the highest standards in all work practices so as to ensure protection of employees and any other affected by what licensee do. Each licensee shall ensure in day to day work that facilities/support programmers are provided to safeguard the health, welfare & wellbeing of their staff.

PSC-6.3 General Provisions of Safety:

The general provisions of safety shall be provided by each licensee covering the following:-

- The provisions for workers/operators to object to doing work on safety grounds
- The use & wearing of safety equipment & protective clothing
- Physical fitness & personal conduct of the worker before and during on job
- Arrangement and procedure of job briefing before the work is started
- Requirements to safe guard the public and property when work in progress
- Requirements for housekeeping in a safe working conditions
- Arrangements and requirements of fire protection
- Requirements, arrangements and use of proper tools and plants for the proper and safe storage lifting and carrying of different types of material
- Procedure and reporting requirements of patrolling of lines
- Procedure for tree trimming
- List of common protective devices and equipment used for the safety purposes.

7.21.2 Install and maintain earthing/grounding system (i.e., equipment, exposed steel Structure/pole along with stay wire).

Consumer Service Manual

Chapter 12 Safety and Security

12.2 Obligation of LESCO

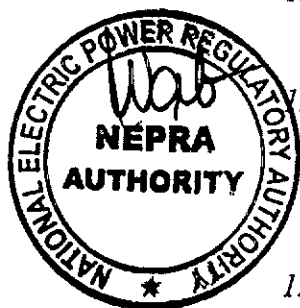
LESCO shall monitor and implement the safety and security plan for consumers. The safety and security objectives can be achieved by adopting good engineering practice, including measures as described below:

.....

12.2.1 Operation and maintenance of LESCO distribution system /Network shall be carried out only by the LESCO authorized and trained personnel.

12.2.2 LESCO system equipment, including overhead lines, poles/structures/towers underground cables, transformers, panels, cutouts, meters, service drops, etc. shall be installed and maintained in accordance with Grid Code, Distribution Code, and other relevant documents.

12.2.4 The earthing systems installed shall be dimensioned and regularly tested to ensure protection from shock hazards.



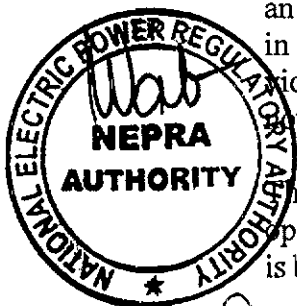
12.2.5 The steel structure installed on the public places shall be earthed at one point through steel/copper conductor, in accordance with the LESCO laid down procedures.

16. The Licensee in the instant MLR has interalia, submitted that the Impugned Order is unwarranted, without jurisdiction, and has been passed in complete derogation of the applicable framework. The Licensee further submitted that the Impugned Order has been passed in a purported exercise of power under Section 27B of the NEPRA Act which clearly stipulates that actions thereunder can be initiated for a contravention of the provisions of the NEPRA Act or the rules and regulations made thereunder or failure to comply with the conditions of a license. The Impugned Order, however, fails to identify any provision of the NEPRA Act, rules, regulations which has been contravened by the Petitioner or any terms of the license, which the Petitioner has failed to comply with which led to happening of the unfortunate accidents. Not even a causal analysis has been undertaken. Instead, the Impugned Order makes obscure references to various irrelevant provisions of the NEPRA Act and the regulatory framework laid down thereunder.

The Authority after considering the submissions of the Licensee is of the considered view that the show cause notice clearly cited Section 21(2)(f) of the NEPRA Act, Article 11 of the Distribution License, Rule 4(g) of the NEPRA Performance Standards (Distribution) Rules, 2005, Clause 4 of the Safety Requirements, and Clauses PSC1, PSC2, and PSC6.3 of the Power Safety Code. The analysis section of the order further elaborates on these violations, demonstrating that the reference to legal provisions was neither vague nor obscure. The Authority further observes that NEPRA adhered to due process by issuing a show cause notice, affording the Licensee the opportunity to respond, and conducting a thorough review before imposing the fine. Compliance with Section 27B of the NEPRA Act was ensured, as the penalty was imposed only after providing a reasonable opportunity of being heard. Furthermore, the Licensee has failed to produce any new evidence or legal grounds that would justify reconsideration of the fine. Its review petition relies on procedural objections rather than challenging the substantive findings of the order.

17. The Licensee has also submitted that the Impugned Order is a non-speaking order as it fails to give any reasons/rationale in support thereof and address the submissions advanced by the Petitioner. The Licensee further submitted that the Impugned Order is without any evidential basis and fails to consider the relevant facts, more particularly that the Petitioner took all requisite steps under the applicable framework. The Authority has not even attempted to consider and respond to any of the explanations furnished by the Petitioner in terms of the Reply to the SCN. The Licensee further submitted that Section 24A of the General Clauses Act, 1897, mandatorily requires a person taking any action or passing an order to exercise his powers reasonably, fairly, justly, and by way of a reasoned order. Such order can only be judiciously given through an independent and unbiased application of the mind to the facts of the case resulting in a speaking order covering the pleas of both sides. Admittedly, the Impugned Order violates this binding legal dictate. Any order affecting the rights of citizens that does not conform to these standards is liable to be set aside.

The Authority has considered the submissions of the Licensee and is of the considered opinion that the Licensee's argument that the Impugned Order is a non-speaking order is baseless. The order clearly outlines the reasoning and legal basis, wherein all the facts



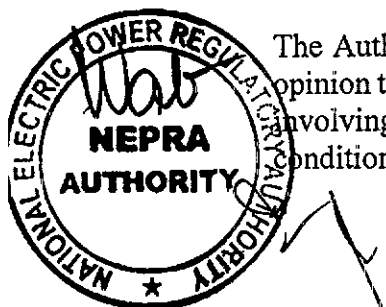
have been portrayed and the Authority after the detailed deliberations reached a conclusion by addressing the submissions in a manner consistent with the facts and law. The Authority is not required to respond to every minute detail of the submissions made by the Petitioner, particularly if those submissions are irrelevant or do not materially impact the outcome. The Impugned Order reflects an independent and unbiased application of the law, and the Licensee's dissatisfaction with the outcome does not indicate a failure of due process. Moreover, the Licensee's reliance on Section 24A of the General Clauses Act, 1897, which mandates that orders be reasoned, is misplaced, as the impugned order comprehensively discusses the violations, evidence, and rationale for the penalty. The order meets the standard of a reasoned decision and does not suffer from any procedural or substantive defect.

18. The Licensee has submitted that it has been the stance of the Petitioner throughout that it unwaveringly adheres to and is committed to ensuring compliance with the NEPRA Act, Rules, Regulations and the relevant applicable documents made thereunder and that the root causes of the fatal accidents stem from either extreme unprecedented weather conditions beyond the Petitioner's control or individual acts and omissions that cannot be attributable to the Petitioner in any manner whatsoever.

The Authority after considering the submissions of the Licensee observes that the Licensee's argument that the fatal accidents were caused solely by extreme weather conditions or individual acts and omissions and that it cannot be held responsible for those fatal accidents. Moreover, it is pertinent to highlight here that while issuing the Show Cause Notice to the Licensee, each and every fatal accident was carefully analyzed by the Investigation committee and after detailed deliberations, responsibility was affixed to the Licensee for only those accidents, wherein there is certain violation of law by the Licensee.

19. The Licensee has also submitted that the employee's accident occurred due to working carelessly and in haste, and in the absence of any permission to work. The Licensee further added that the majority of the accidents involving the general public happened because of extreme and unprecedented weather conditions or actions solely attributable to the concerned individuals. The Petitioner cannot be held responsible for the actions/omissions of the individuals, particularly where the Petitioner had no role in happening of the accidents. The Petitioner exhaustively explained the reasons which led to happening of the unfortunate accidents, however, the same has been ignored in the Impugned Order. A perusal of the Impugned Order reveals that the same is largely a reiteration of the findings of the inquiry committee, with no independent application of mind. The Petitioner's distribution network and operational systems were not the primary causes of these incidents. By relying on the IC's findings that there was no proper earthing and leakage of current in the structures without applying its own independent application of mind, the Authority has passed the Impugned Order in a slipshod and mechanical manner. The Petitioner cannot be saddled by the Authority with the liability and responsibility for the actions of others or for matters that were beyond the Petitioner's control. In view thereof, the Impugned Order is liable to be reviewed and set aside.

The Authority after considering the submissions of the Licensee is of the considered opinion that the Licensee has claimed that it cannot be held responsible for the accidents involving both employees and the public, due to individual actions or extreme weather conditions. The individual acts/negligences and extreme weather conditions may have



contributed to some accidents, however, the Licensee's failure to properly implement and enforce safety protocols, including ensuring proper training, supervision, and system maintenance, cannot be disregarded. Moreover, the reliance on the inquiry committee's findings does not indicate a lack of independent application of mind by the Authority but rather reflects a thorough examination of the factual and technical circumstances. The findings of improper earthing and leakage of current in structures point directly to operational deficiencies within the Licensee's systems, which remain the Licensee's responsibility. The Petitioner cannot deflect responsibility by attributing all incidents to external factors or individual errors, as it remains accountable for preventing foreseeable risks within its control. Therefore, the Impugned Order is legally sound and should not be set aside.

20. The Licensee has submitted that, without prejudice to the above, it is further submitted that the Impugned Order also fails to appreciate that the city of Lahore saw unprecedented rainfall during the month of July 2023, which broke almost forty-year records. It is common knowledge but also important to emphasize that the entirety of Lahore's drainage system was also negatively impacted by the unusually unprecedented high rainfall, which caused stagnant water to build up throughout the city and clogged the WASA's drainage system. Such extraordinary occurrences have the potential to interfere with people's everyday lives and safety. It is also crucial to emphasize that the aforementioned catastrophes only happened on July 5, 6, 19, and 20 due to the unusual and uncontrolled weather. This is important because, if there had been any problems or flaws in the Petitioner's distribution system that could have caused these kinds of incidents, they would have shown up at other times and not just on days with lots of rain and standing water. The absence of accidents following the aforementioned dates is a clear indication that the Petitioner's distribution network is operating well in both ordinary and non-extreme weather situations. It further confirms that these incidents were not a sign of any underlying network problems or any negligence or fault of the Petitioner, but rather were a regrettable result of the intense and unpredictable weather. In addition to the above, it is also pointed out that the Petitioner also undertook its detailed internal inquiries, and where any negligence of the concerned official was established, it undertook appropriate disciplinary action against that individual, which also shows the Petitioner's resolve to avoid these accidents. However, the Impugned Order also ignores the actions taken by the Petitioner in relation to these accidents.

The Authority after analyzing the arguments put forth by the Licensee observes that the Licensee's argument that the accidents were solely caused by unprecedented rainfall and exceptional weather conditions in Lahore fails to fully account for its broader responsibilities under the law to maintain a safe distribution network, regardless of weather conditions. While extreme weather events may have exacerbated certain risks, the Petitioner cannot absolve itself of liability by attributing these accidents solely to such factors. The occurrence of accidents during specific weather events, in July 2023, suggests that the distribution system of the Licensee is vulnerable and may have been ill-prepared to handle extreme conditions, particularly if issues like improper earthing or inadequate infrastructure contributed to the incidents. The absence of accidents on other days does not necessarily prove the system's overall reliability; it merely reflects the lack of extreme conditions that might expose underlying weaknesses. Moreover, while the Licensee claims to have taken appropriate disciplinary action in cases of individual negligence, this does not mitigate the systemic or operational deficiencies that may have contributed to the accidents. The Petitioner's internal inquiries and corrective actions do not absolve it from responsibility for ensuring that its network is



robust enough to prevent accidents under all conditions, including extreme weather. Therefore, the Licensee's argument does not adequately address its duty to maintain a safe and reliable system and does not justify setting aside the Impugned Order.

21. The Licensee has submitted that owing to this meticulous commitment and adherence to HSE, the Authority itself in its HSE Performance Evaluation Report dated 29.05.2024 has noted that the Petitioner's HSE points had gone up from 63 in 2021-22 to 81 in 2022-23, accordingly placing the Petitioner in the "Outstanding" category when it came to compliance with HSE standards.

The Authority after going through the submissions of the Licensee observes that the Licensee has referred to NEPRA HSE Performance Evaluation Report, which places the Petitioner in the "Outstanding" category based on an increase in HSE points. The improvement in HSE points is acknowledged, however, it does not absolve the Licensee of accountability for the fatal accidents in its service territory. The occurrence of fatal accidents, despite an apparent improvement in HSE performance, suggests that there may be underlying deficiencies in the practical implementation of safety code/protocols, training, and supervision. Therefore, the Licensee's reliance on the HSE report does not mitigate its responsibility for the tragic incidents.

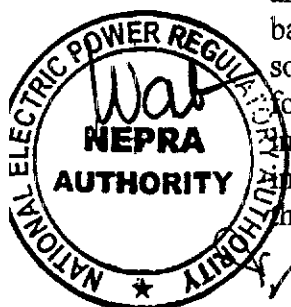
22. The Licensee has submitted that it has enforced Comprehensive safety standard operating procedure(s) ("SOPs"), Quick impact safety training ("QIST") programs, Behavior-based Trainings for Line Staff, a balanced approach by incentivizing line staff through recognition, Safety audits, surprise site checks, safety calls and elimination of hazards and unsafe conditions.

The Authority after considering the submissions of the Licensee is of the view that all the aforementioned steps taken by the Licensee are acknowledged. However, these steps are not sufficient for the Licensee to reach the target of zero fatal accidents. If all the aforementioned steps had been followed by the Licensee in true letter and spirit, there would have been zero fatal accidents in the Licensee's territory. The mere existence of comprehensive safety protocols and training programs does not guarantee their proper implementation or compliance, especially when fatal accidents continue to occur.

23. Foregoing in view, it is concluded that the Licensee has failed to produce any new/additional ground in its review petition. Hence, it can be said that the Licensee has failed to provide any satisfactory response and thereby is in violation of Performance Standards (Distribution) Rules, Distribution Code, Power Safety Code, Consumer Service Manual, and other applicable documents.

Decision:

24. After perusing all the relevant records, applicable law, and taking into account the arguments of the Licensee, the Authority has observed that the Licensee has neither based their objections on the discovery of new and important matter nor on account of some mistake or error apparent on the face of the record nor on other sufficient reasons for which evidence could not be produced by the Licensee. Arguments of the Licensee in support of their review had already been considered and discussed by the Authority in its earlier decision. No error apparent on the face of the record was pointed out by the Licensee nor have any other sufficient reasons been advanced to justify the review.

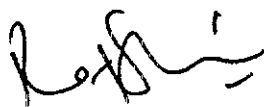


Hence, the review is dismissed. The Authority upholds its earlier order dated August 09, 2024, and the Licensee is directed to pay the fine of PKR 23,000,000/- (Twenty-three Million) within fifteen (15) days of the issuance of this order.

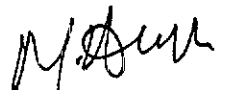
25. Furthermore, the Authority has also maintained its earlier directions with respect to payment of compensation by the Licensee (equal to the amount given to its employee) to the bereaved families along with a job to the next kin of the each of deceased families, therefore, the Licensee is directed to comply with the directions of the Authority and submit its compliance report in due course of time.

AUTHORITY

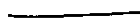
Rafique Ahmed Shaikh
Member (Technical)



Engr. Maqsood Anwar Khan
Member (Licensing)



Mathar Niaz Rana (nsc)
Member (Tariff)



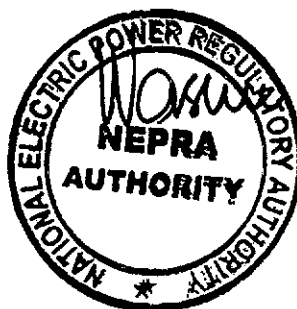
Amina Ahmed
Member (Law)



Waseem Mukhtar
Chairman



Dated 9th April, 2025



tuwan