



Registrar

National Electric Power Regulatory Authority

Islamic Republic of Pakistan

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No. NEPRA/DG(M&E)/LAD-05/ **5352**

April 10, 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 OF THE AUTHORITY DATED
JULY 05, 2024 IN THE MATTER OF SHOW CAUSE NOTICE ISSUED
DATED AUGUST 30, 2023, TO LESCO ON ACCOUNT OF FATAL
ACCIDENTS THAT OCCURRED DURING FY 2022-23**

Please find enclosed herewith, the Order of the Authority (total 19 pages) in the subject matter for information and compliance.

Enclosure: **As above**

Wasim Anwar Bhinder
(Wasim Anwar Bhinder)



National Electric Power Regulatory Authority

ORDER

IN THE MATTER OF REVIEW PETITION FILED BY LESCO AGAINST THE ORDER OF THE AUTHORITY DATED JULY 05, 2024 IN THE MATTER OF SHOW CAUSE NOTICE ISSUED DATED AUGUST 30, 2023, TO LESCO ON ACCOUNT OF FATAL ACCIDENTS THAT OCCURRED DURING FY 2022-23.

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 July 05, 2024, (the "Impugned Decision"), in the matter of Show Cause Notice issued to the Licensee on account of fatal accidents that occurred during FY 2022-23, in violation of the NEPRA Act, Terms & Conditions of its Distribution License, Performance Standards (Distribution) Rules, Distribution Code, Power Safety Code, Consumer Service Manual and other 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. As per Rule 7 of NEPRA Performance Standards (Distribution) Rules, 2005 (PSDR-2005), all Distribution Companies (DISCOs) are bound to submit an Annual Performance Report to the Authority every year. Further, Form 9 of PSDR 2005 states that DISCOs shall report each and every individual incident on an immediate basis. Accordingly, the DISCOs submitted the data/information to NEPRA regarding electrical incidents resulting in death/permanent disability/serious injury to members of staff or the general public that occurred in FY 2022-23.

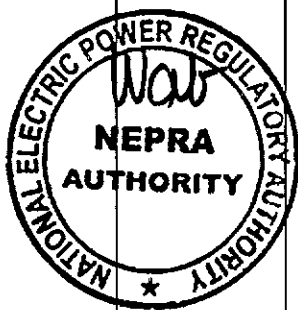
4. During the review of data submitted by the Licensee for FY 2022-23, it was revealed that a total number of eleven (11) fatalities (08 Employees and 03 Public Persons) occurred within the service territory of the Licensee. This figure illustrates a concerning picture regarding efforts taken by the Licensee to inculcate a safety culture in its service territory.

Summary of Inquiry Reports:

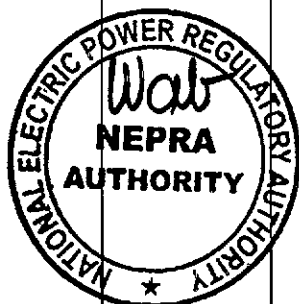
5. It is relevant to mention that after getting information pertaining to each individual case, NEPRA carried out a thorough evaluation of all relevant records including the internal

inquiry reports submitted by the Licensee itself against the eleven (11) fatalities that occurred during FY 2022-23. The summary of the same is as under:

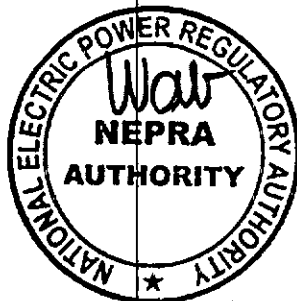
Sr. No.	Name of Victim(s)	Date of Incident	Category	Incident Description	Responsibility / Reasons
1	Unknown	03.12.2022	Public	The victim was a thief and trying to steal the independent tube-well 15kVA transformer. While disconnecting 11kV Jumpers with the help of bolt cutter he got electrocuted.	Others
2	Mr. Ahsan	03.01.2023	Public	An owner of commercial shop namely Mr. Mahmood, was carrying out the paintwork on front side of the shop. The laborer was working on scaffolding, which was slipped and fallen on the 11 kV Anarkali feeder. Meanwhile, a pedestrian namely Mr. Ahsan erroneously touched the scaffolding, got electrocuted and died on the spot.	Others
3	Mr. Abdul Aziz (Private Electrician)	30.04.2023	Public	The victim lost his life due to electrocution while responding to a complaint received from Mr. Amjad Hussain (ASSA) of 132 kV Bhai Pheru grid station, to repair a burnt 11 kV jumper on a transformer supplying power to his residence. Upon arriving at the site, the victim started to carry out work and he was facilitated by Mr. Amjad Hussain's illegal tripping of the VCB at the grid station. However, when the power supply was restored during his repairs, he suffered an electric shock and fatally fell to the ground. This underscores the risks	LESCO <ul style="list-style-type: none"> Lack of Safety Measures/ Culture



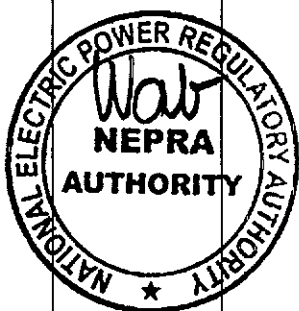
				associated with unauthorized manipulation of electrical systems and the critical importance of adhering to safety protocols.	
4	Mr. Muhammad Aslam (LM-I)	06.07.2022	Employee	The victim, assuming that the 11kV EKHL feeder was deadshort, climbed the structure to remove the hanging wire and came in contact with the energized 11kV EKHL feeder and died at the spot.	<p>LESCO</p> <ul style="list-style-type: none"> Lack of Safety Measures/ Culture
5	Mr. Ilhan Masih (ALM)	16.07.2022	Employee	After confirmation of PTW on 11 kV Green Town Feeder, the victim climbed up the structure, fastened his safety belt, and tried to set right 11 kV jumpers of the tube well transformer, however, he sustained electric shock as he erroneously touched the energized 11 kV Umar Chowk Feeder and died on the spot as the said 100 kVA WASA Tube-well connection was feeding from 11 kV Umar Chowk Feeder instead of Green Town Feeder.	<p>LESCO</p> <ul style="list-style-type: none"> Lack of Safety Measures/ Culture
6	Qiaser Mehmood (LM-I)	17.09.2022	Employee	At the incident site, Mr. Qiaser Mehmood (LM-I) i.e. the victim, and Mr. Abrar (LM-I) climbed on the bucket, after attaining the required height, the victim tried to earth the 11 kV Ravi Rayan feeder with lifesaving chain. After clenching the clamp of lifesaving chain with the stay wire when he tried to wrap the other end of lifesaving chain with 11 kV Ravi Rayan feeder, he sustained 11 kV electric shock as the 11 kV feeder was energized. The victim	<p>LESCO</p> <ul style="list-style-type: none"> Lack of Safety Measures/ Culture



				<p>was immediately shifted to hospital where he was declared dead.</p> <p>It is pertinent to mention here that Mr. Junaid Zaman (ASSA), 132 kV Ittehad Chemical Grid Station, at the time of issuance of PTW to concerned LS mistakenly switched off and wracked out the VCB trolley of 11 kV P-Liner feeder instead of 11 kV Ravi Rayan Feeder.</p>	
7	Mr. Muhammad Shabaz	11.05.2023	Employee	<p>Mr. Muhammad Shabaz (LM-I), the victim, along with the consumer reached at the site khairy kalan where the tube-well connection was installed. Mr. Muhammad Shahbaz LM-I found that 02 No. 11 kV jumpers of 10 kVA transformer of the tube-well connection were damaged. Mr. Muhammad Shabaz LM-I climbed up the structure and when he touched the 11 kV jumper of 10 kVA transformer of said tube-well connection, he sustained 11 kV electric shock and fell down on the ground as he did not fasten the safety belt and died on the spot.</p>	<p>LESCO</p> <ul style="list-style-type: none"> Lack of Safety Measures/ Culture
8	<p>i. Mr. Hasan Raza (LM-I)</p> <p>ii. Mr. Muhammad Hafeez (ALM)</p>	01.07.2023	Employee	<p>For maintenance purpose, upon reaching the site, Mr. Hassan Raza (LM-I) and Mr. Muhammad Hafeez (ALM) got into the bucket along with a steel-x-arm for the bus-bar. When the bucket reached a height of approximately 10-11 feet, breakage of boom occurred which causing the bucket to tilt downwards. Consequently, both officials fell to the ground along with</p>	<p>LESCO</p> <ul style="list-style-type: none"> Lack of Safety Measures/ Culture



				the steel-x-arm and sustained severe injuries. Both the officials were immediately shifted to the hospital, however, they died.	
9	Mr. Masood Sarwar (LM-I)	05.06.2023	Employee	The victim lost his life while performing testing procedures for the newly constructed 132 kV Eden City Grid Station. While connecting wires to the potential transformer, he slipped and fell from the structure, resulting in a severe head injury when his head struck against a trench slab. Despite immediate transportation to the Hospital, he was pronounced dead upon arrival. This unfortunate incident underscores the importance of strict safety protocols in such high-risk work environments.	<p>LESCO</p> <ul style="list-style-type: none"> Lack of Safety Measures/ Culture
10	Mr. Khalid Iqbal (LM-I)	24.06.2023	Employee	The victim lost his life due to electrocution while attempting to reconnect 11 kV jumpers. The incident occurred as he climbed the 11 kV dead-end structure to restore power to a tube-well connection. Despite the availability of appropriate grounding sets, proper grounding/earthing procedures were not followed by Mr. Muhammad Rafique LS-II, who was supervising the task. This failure to ensure safety protocols ultimately led to the fatal accident.	<p>LESCO</p> <ul style="list-style-type: none"> Lack of Safety Measures/ Culture



Based on the aforementioned summary, the following is the final outcome:

Description	Number of Fatalities	Responsibility	
		LESCO	Others
Employees	08	08	00
Public	03	01	02
Total	11	09	02

6. Moreover, according to Rule 4(g) of PSDR-2005, the Licesnee should establish and enforce appropriate rules, regulations, and operational procedures as outlined in its Distribution Code or relevant documents to ensure the safety of both its employees and the general public, however, it has failed to do so.
7. The Authority took notice of the aforementioned fatal accidents and decided to initiate legal proceedings against the Licensee under NEPRA Fine Regulations, 2021. Accordingly, NEPRA vide its letter dated August 30, 2023, served a Show Cause Notice (SCN) to the Licensee on account of eleven (11) fatalities (08 Employees and 03 Public Persons) that occurred during FY 2022-23 for violating Performance Standards, Distribution Code, Power Safety Code, and other applicable documents. The salient points of the said SCN are as follows;
 2. *WHEREAS, pursuant to section 21(2)(f) of the NEPRA Act, the Licensee is required to follow the performance standards laid down by the Authority for the distribution and transmission of electric power, including safety; and*
 3. *WHEREAS, pursuant to Rule 4(g), of Performance Standards (Distribution) Rules, 2005, and clause SR 4 of Distribution Code, 2005:*
 - i. *All distribution facilities of a distribution company shall be constructed, operated, controlled and maintained in a manner consistent with the Distribution Code, Power Safety Code, Consumer Service Manual, and other 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.

4. **WHEREAS**, pursuant to Clauses PSC-1, PSC-2, & PSC-6.3 of 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.

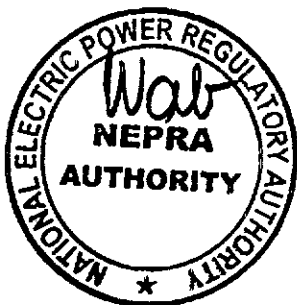
The licensee shall promote a healthy & safe culture and provide all employees, contractors, and the people concerned and the public with a safe & healthy place to work. The Licensee shall ensure that safe working is integrated into every aspect and area of business. Moreover, safety culture shall be 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 & well-being of their staff.

PSC-6.3 General Provisions of Safety:

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

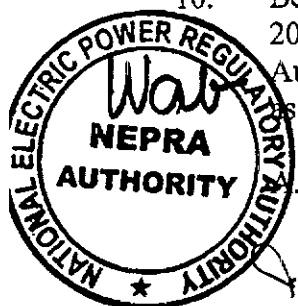
- *The provisions for workers/operators to object to doing work on safety grounds*
- *The use & wearing of safety equipment & protective clothing*
- *Physical fitness & personal conduct of the worker before and during on job*
- *Arrangement and procedure of job briefing before the work is started*
- *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.

5. **WHEREAS**, according to Performance Standards (Distribution) Rules, 2005, the Licensee is obligated to submit the details of fatal accidents for employees as well as the general public that occurred in its service territory. Accordingly, in FY 2022-23, the Licensee has reported a total number of eleven (11) fatalities (8 Employees & 3 Public Persons); and
6. **WHEREAS**, according to Performance Standards (Distribution) Rules, 2005, the Licensee is obligated to submit the details of fatal accidents for employees as well as the general public that occurred in its service territory. Accordingly, in FY 2022-23, the Licensee has reported a total number of fourteen (14) fatalities (4 Employees & 10 Public Persons); and
7. **WHEREAS**, the Authority has taken serious notice of such casualties and is of the view that the Licensee has failed to operate and maintain its distribution facilities in a safe and reliable manner. Hence, it can be said that the Licensee has, *prima facie*, violated Section 21(2)(f) of the NEPRA Act, Article 11 of the Distribution License read with Rule 4(g) of the NEPRA Performance Standards (Distribution) Rules, Clause 4 of Safety Requirements, Clauses PSC-1, PSC-2, & PSC-6.3 of Power Safety Code and other applicable documents; and
8. The Licensee submitted its response vide its letter dated September 28, 2023, 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.
9. 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 under the NEPRA Act, and NEPRA (Fine) Regulations, 2021 on account of non-compliance by the Licensee with NEPRA Act, Terms & Conditions of its Distribution License, Performance Standards (Distribution) Rules 2005, Distribution Code, Power Safety Code, Consumer Service Manual and other applicable documents. 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 July 05, 2024 (Impugned Order).
10. Being aggrieved with the impugned order, the Licensee vide its letter dated August 05, 2024, filed the Motion for Leave for Review (MLR) against the impugned order of the Authority dated July 05, 2024. The grounds submitted by the petitioner in its MLR are as follows:

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:

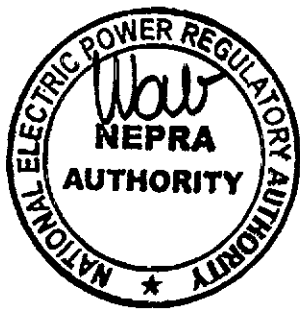
"27B. Penalty for default or contravention. – Any person who acts in contravention of this Act or the rules and regulations made thereunder or fails to comply with the conditions of a license issued or registration granted to that person and such person is a party to such contravention shall be punishable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



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D. 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 individual acts and omissions that cannot be attributable to the Petitioner in any manner whatsoever. An analysis of the causes for the eight fatal accidents involving the Petitioner's employees reveals a clear pattern of individual actions and mistakes. One accident occurred due to working carelessly and in haste. Four accidents transpired as a result of employees working without proper authorization or exercising their own discretion. Lastly, two incidents were the direct outcome of gross unsafe acts committed by individuals, such as working on energized lines. Only one accident was attributed to equipment failure. A majority of these accidents were preventable and stemmed from the decisions and actions of individuals rather than systemic or operational deficiencies. An analysis of the public person fatalities reveals a similar pattern. More particularly, the Petitioner cannot be held responsible for an accident which happened when a person was trying to steal the electrical equipment. The Petitioner's distribution network and operational systems were not the primary causes of these incidents. Instead, these tragic accidents were a direct result of individual actions, decisions, and behaviours.

E. 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. Pakistani law recognizes that the necessary ingredients for proving vicarious liability are that: (i) there must be a tort/delict; (b) the tort/delict must have occurred during the course of employment; and (c) it must be fair, just and reasonable to hold the Petitioner vicariously liable for the actions that constitute the tort/delict. These ingredients have been deliberately ignored by the Authority when it arrived at its conclusion 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 their business. 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 HSE standards were linked to each other. Resultantly, the Petitioner did not, by any stretch of imagination, put its employees or the public at large in such a position that it would be susceptible to risk or harm from the acts of omissions of its employees in the ordinary course of their business. It is pertinent to mention here that majority of the accidents occurred when the relevant personnel were operating without authorization i.e. in absence of permission to work. Accordingly, it cannot be said that those accidents happened during the course of employment. In the absence of proving any tort/delict, the Impugned Order is liable to be reviewed and set aside.

F. That the Petitioner cannot be faulted for the actions of its own employees when they themselves are authors of their own wrong. Lapses in safety are actively discouraged by the Petitioner whereas following safety protocol is rewarded. The Authority has, instead, equated every fatality as a breach of safety obligations is erroneous and without legal authority. In arriving at its conclusion, the Authority has ignored the following facts material to the disposal of the matter:



- 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 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.
- d. Owing to this meticulous commitment and adherence to HSE, the Authority itself in its HSE Performance Evaluation Report dated 29.05.2024 has note 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.

G. 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 is taking measures on war-footing basis to ensure safety of its employees and 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).
- 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 an rectifying potential risks to create a safer working environment.

H. That even otherwise and without prejudice to the Petitioner's stance above, it is submitted that the SCN and the Impugned Order are without jurisdiction and are ultra vires the Fine Regulations. In this regard, the following may be noted: -



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- 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. As 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 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."



11. 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.
- v. As per section 47 of the NEPRA Act, the Regulations are to be made and all the Regulations are made under this section.
- vi. 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.

12. **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

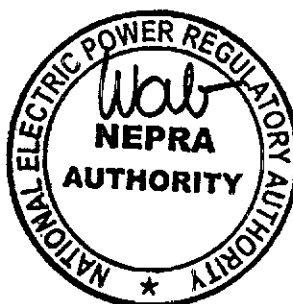
The Licensee shall follow the performance standards laid down by the Authority for distribution and transmission of electric power, including safety, health, and environmental protection instructions issued by the Authority or any Governmental agency;

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.

The Licensee is required to follow the design parameters of the distribution network and take all possible measures as laid down in the NEPRA Performance Standards Distribution Rules, Distribution Code, and Consumer Service Manual to ensure that there is no leakage of current from its distribution facilities to avoid any danger or harm to human life and property. Based on the details of individual cases briefed at length in the preceding paragraphs, the major findings of the NEPRA are as follows:

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12.1. LACK OF SAFETY MEASURES/CULTURE:

It has been observed that eight (08) fatalities of the Licensee employees, and one (01) public fatality occurred due to a lack of safety measures/culture in the Licensee's service territory. Further, details are the following:

- i. Mr. Abdul Aziz (Private Electrician)
- ii. Mr. Muhammad Aslam (LM-I)
- iii. Mr. Ilhan Masih (ALM)
- iv. Qiaser Mehmood (LM-I)
- v. Mr. Muhammad Shabaz
- vi. Mr. Hasan Raza (LM-I)
- vii. Mr. Muhammad Hafeez (ALM)
- viii. Mr. Masood Sarwar (LM-I)
- ix. Mr. Khalid Iqbal (LM-I)

In the case of Mr. Abdul Aziz, a private electrician was facilitated with illegal tripping by the grid staff, which led to his demise. In addition to the above, in the cases of the Licensee's own employees, the root causes of the accidents were casual attitude, risky decisions, equipment failure, 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, improper PPE, and lack of supervision of work under safety precautions at the worksite are also contributing factors to the accidents. Moreover, the execution of work in an unplanned and haphazard manner is also a reason for fatal accidents.

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 a safe environment.

NEPRA Performance Standard (Distribution) Rules

Rule 4(g) – Overall Standard (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

SR 4, Safety Management Criteria

- a. *All distribution facilities of a distribution company shall be constructed, operated, controlled, and remained in a manner consistent with the applicable documents.*
- 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 the general public including without limitation, employees and property of the distribution company.*
- c. *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.*

Clause PSC-1, PSC-2, & PSC-6.3 of Power Safety Code:

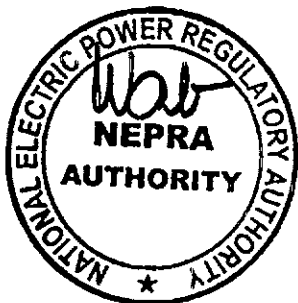
PSC-1 Purpose:

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 & well-being 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 safeguard 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 safety purposes.*



13. 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 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 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.

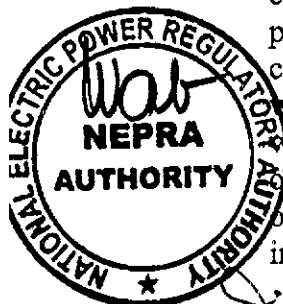
The Authority after considering the submissions of the Licensee is of the considered view that the show cause notice clearly cited Section 21(2)(f) of the NEPRA Act, Article 11 of the Distribution License, Rule 4(g) of the NEPRA Performance Standards (Distribution) Rules, 2005, Clause 4 of the Safety 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.

14. 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 said 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.

15. 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 individual acts and omissions that cannot be attributable to the Petitioner in any manner whatsoever. An analysis of the causes of the eight fatal accidents involving the Petitioner's employees reveals a clear pattern of individual actions and mistakes. One accident occurred due to working carelessly and in haste. Four accidents transpired as a result of employees working without proper authorization or exercising their own discretion. Lastly, two incidents were the direct outcome of gross unsafe acts committed by individuals, such as working on energized lines. Only one accident was attributed to equipment failure. A majority of these accidents were preventable and stemmed from the decisions and actions of individuals rather than systemic or operational deficiencies. An analysis of the public



person fatalities reveals a similar pattern. More particularly, the Petitioner cannot be held responsible for an accident that happened when a person was trying to steal the electrical equipment. The Petitioner's distribution network and operational systems were not the primary causes of these incidents. Instead, these tragic accidents were a direct result of individual actions, decisions, and behaviors.

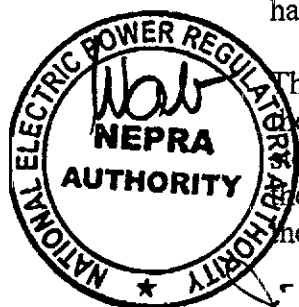
The Authority after considering the submissions of the Licensee observes that the Licensee's assertion is not true that the accidents were solely the result of individual acts and omissions, and that it cannot be held responsible for those accidents. In this regard, it is pertinent to highlight here that while issuing the Show Cause Notice to the Licensee, each and every fatal accident was carefully analyzed by the M&E department and after detailed deliberations, responsibility was affixed to the Licensee for only those accidents, wherein there is certain violation of law by the Licensee. While individual mistakes may have played a role, the Petitioner's overall responsibility to ensure a safe working environment and adherence to safety protocols cannot be absolved. The fact that multiple fatal accidents, both involving employees and the public, occurred under similar circumstances suggests potential deficiencies in training, supervision, or the adequacy of safety measures within the jurisdiction of the Licensee. The Licensee's attempt to solely attribute these incidents to individual behavior fails to consider whether the Petitioner's policies, practices, and operational frameworks were sufficiently robust to prevent such accidents. Therefore, the Licensee's attribution of individual actions does not absolve it of its responsibility to ensure safety across its operations.

16. 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.

17. 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.

18. 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:


19. 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 July 05, 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.
20. 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

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Member (Technical)



Engr. Maqsood Anwar Khan
Member (Licensing)



Mathar Niaz Rana (nsc)
Member (Tariff)



Amina Ahmed
Member (Law)



Waseem Mukhtar
Chairman





Dated 10th April, 2025