



**National Electric Power Regulatory Authority**  
Islamic Republic of Pakistan

NEPRA Tower, Attaturk Avenue (East), G-5/1, Islamabad  
Ph: +92-51-9206500, Fax: +92-51-2600026  
Web: www.nepra.org.pk, E-mail: registrar@nepra.org.pk

**Registrar**

No. NEPRA/R/LAD-22/19438-40

November 30, 2017

Mr. Muhammad Yousaf  
Plant Manager,  
Mannoo Energy Limited,  
Mannoo House 3, Montgomery Road,  
Lahore.

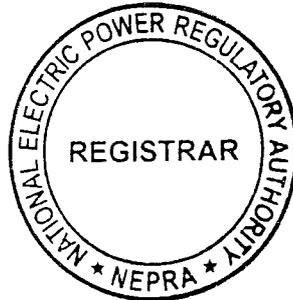
**Subject: Modification in Distribution Licence No: 10/DL/2006  
Licence Application No. LAD-22  
Monnoo Energy Limited (MEL)**

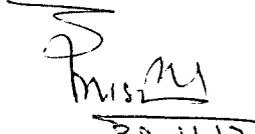
*Reference: MEL's letter No. MEL/H.O/938 dated December 16, 2016 (received on December 20, 2016)*

It is intimated that the Authority has approved "Licensee Proposed Modification" in Distribution Licence No. 10/DL/2006 in respect of Monnoo Energy Limited (MEL), pursuant to Regulation 10(11)(a) of the NEPRA Licensing (Application and Modification Procedure) Regulations 1999.

2. Enclosed please find herewith determination of the Authority in the matter of Licensee Proposed Modification in the Distribution Licence of MEL along with Modification-I in the Distribution Licence No. 10/DL/2006 as approved by the Authority.

**Enclosure: As Above**



  
(Syed Safeer Hussain)  
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Copy to:

1. Chief Executive Officer, Lahore Electric Supply Company Limited, 22-A, Queens Road, Lahore.
2. Director General, Environment Protection Department, Government of Punjab, National Hockey Stadium, Ferozpur Road, Lahore.

**National Electric Power Regulatory Authority**  
**(NEPRA)**

**Determination of Authority**  
**in the Matter of Licensee Proposed Modification in Distribution**  
**Licence of Monnoo Energy Limited**

November  
~~December~~ 30, 2017  
Case No. LAD-22

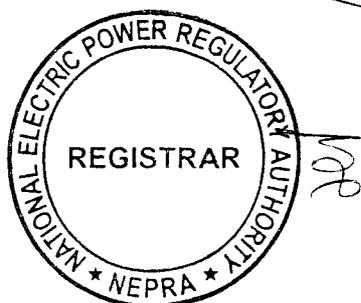
**(A). Background**

(i). The Authority granted a generation licence (No. SGC/010/2001 dated December 08, 2001) to Monnoo Energy Limited (MEL), a Small Power Producer (SPP), in terms of Section-15 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 ("the NEPRA Act"). The said generation licence was granted for its 4.60 MW HFO based generation facility located at 4.5-KM Off Lahore-Sheikhupura Road near Chichoo Ki Mallian, district Sheikhupura in the province of Punjab.

(ii). Based on the Article-7 of the abovementioned generation licence, the Authority also granted a distribution licence (No. 10/DL/2006, dated October 20, 2006), in terms of Section-20 and 21 of the NEPRA Act for its distribution facilities in district Sheikhupura, for supplying power to its three (03) designated Bulk Power Consumers (BPCs).

**(B). Communication of Modification**

(i). MEL communicated a Licensee Proposed Modification (LPM) in its distribution licence on January 02, 2017, as stipulated in Regulation-10 of NEPRA Licensing (Application & Modification Procedure) Regulations, 1999 ("the Licensing Regulations").



(ii). MEL in the "text of the proposed modification" stated that the term of its distribution license (No. 10/DL/2006, dated October 20, 2006), is only valid till December 07, 2016. Whereas, the remaining useful life of the units of its generation facility is beyond December 2031, therefore, the term of its distribution license may be extended up to December 2031.

(iii). Regarding "reasons in support of modification" statements, MEL has stated that the requested modification would benefit the BPCs, as it would ensure that generation capacity continues to be available and maintained. About the statement of licensee regarding impact of the proposed modification on tariff and quality of service, MEL submitted that the modification will not have any adverse impact on tariff, quality of service and its performance under the licence.

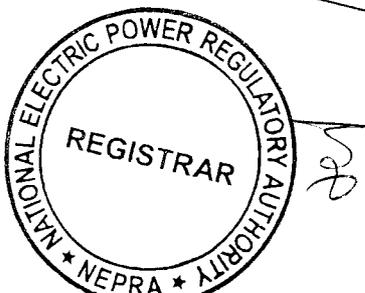
### **(C). Processing of the Modification**

(i). After completion of all the required information as stipulated under the Regulation-10(2) and 10(3) of the Licensing Regulations by MEL, the Registrar published the communicated LPM in one English and one Urdu daily newspapers on January 18, 2017, to invite the general public for their comments in the matter as stipulated in Regulation-8 of the Licensing Regulations.

(ii). Apart from the notice in the press, separate notices were also sent to experts, Government Ministries and representative organization etc. on January 18, 2017 inviting their views and comments. Through the said notices, the stakeholders were informed about the communicated LPM and publication of its notice in the press. Further, the said stakeholders were invited for submitting their views and comments for the assistance of the Authority.

### **(D). Comments of Stakeholders**

(i). In response to the above, the Authority received comments from Lahore Electric Supply Company Limited (LESCO) only. The salient points of the

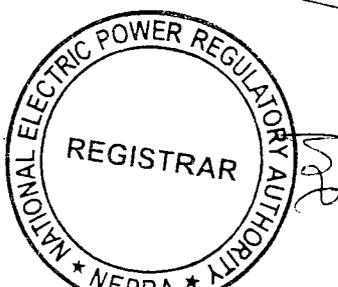


comments offered by the said stakeholder are summarized in the following paragraphs:-

(a). LESCO in its comments submitted that it has no objection in renewal of the generation licence of MEL subject to the fulfillment of the conditions of the Section-21 & 22 of the NEPRA Act and provisions of the Generation Rules. Further, LESCO stated that existing Bulk Power Consumers (BPC)s of MEL are also registered consumers of LESCO. The BPCs should have one electric power connection instead of two separate electric power connections from two separate distinct and independent companies/sources at the same time, therefore, LESCO objects any such arrangement.

(ii). The above comments of the stakeholders were examined and it was observed that LESCO has raised certain observations regarding LPM of MEL. Foregoing in view, it was considered appropriate seeking perspective of MEL on the observations of LESCO.

(iii). In reply to the above, MEL submitted that observations of LESCO do not relate to its LPM for extension in the term of its generation licence. Its generation facility is in operation since May 1998 and supplying to designated BPCs as per approval/authorization of the Authority. In this regard, it is clarified that all three BPCs are having the electric connections from LESCO since their coming into production/force. In the presence of dual connection by consumers, the generation licence was issued to MEL without any objection from LESCO. MEL informed that it cannot cater the entire need of all three consumers alone as their requirement is much greater than the installed capacity of its generation facility therefore the said BPCs need supply from LESCO. MEL clarified that it has only applied for renewal of its distribution licence without any change in the conditions of the previous generation licence.



(iv). The Authority considered the above submissions of MEL and found the same plausible. Regarding observations of LESCO, the Authority is of the view that Section-21 of the NEPRA Act deals with the rights and liabilities of a distribution licensee and states that the Authority may, subject to conditions specified in the NEPRA Act grant distribution licence and the licensee shall possess exclusive right to provide distribution services and to make sale of electric power to consumers in the territory specified in the licence. Further, Section-21 carves out an exception to aforementioned exclusivity of a distribution licensee and allows a generation company to make sales to a BPC within the territory of distribution licensee. It is pertinent to highlight here that grant of such exclusive distribution right is subject to conditions specified in the NEPRA Act. The NEPRA Act imposes certain conditions on a distribution licensee and that licensee cannot enjoy exclusivity without corresponding obligations to provide safe, continuous and reliable electricity to consumers. Thus a distribution licensee cannot claim the exclusive right as an absolute right for the reason that the NEPRA Act does not intend to create a monopoly to sell electricity to consumers being bonded consumers. Moreover, proviso to Section-21 of the NEPRA Act further clarifies the intention of the legislature by carving out an exception to aforementioned exclusive right of a distribution licensee. The said Proviso categorically states that a generation company may make sales of electric power to BPCs within such territory as the Authority may allow, subject to Section-22 for a period of fifteen (15) years. Proviso to Section-21 explicitly bifurcates sales of electric power from delivery of electric power and allows sales of electric power by another licensee to BPC in the territory of a distribution company, thereby negating the exclusivity of a distribution licensee with respect to sales of electric power. If any generating company intends to sell power to a BPC located within service territory of a distribution company, it will seek STSA from the Authority under Section-21 of the NEPRA Act read with Rule-7 of the NEPRA Licensing (Distribution) Rules, 1999 ("the Distribution Rules"). That the abovementioned Rule-7 of the Distribution Rules read with Proviso to Section-21 of the NEPRA Act make it abundantly clear that the Authority may allow, for a period of fifteen (15) years from the



commencement of NEPRA Act, a generation company to supply electric power to BPC in the territory of a distribution licensee. Proviso seeks to achieve an objective that since BPCs are prized consumers and in case of losing BPCs, distribution licensee might incur economic loss, therefore Section-21 and 22 of the NEPRA Act has regulated the sale to BPC by generation companies. It may however be clarified that such restriction was for fifteen (15) years from the commencement of the NEPRA Act and that after December 16, 2012 BPCs are free to get supply of electricity from any source without re-coursing to Section-21 and 22 of the NEPRA Act. It is clarified that time period mentioned in Proviso to Section-21 read with Section-22 of the NEPRA Act does not restrict the powers of the Authority to allow a generation company to supply electric power to a BPC in the territory of a distribution licensee only for the fifteen (15) years from the commencement of the NEPRA Act. Such restrictive interpretation of period of fifteen (15) years mentioned in the Proviso is against the spirit of the NEPRA Act, undermines the competitive environment and discourages the investment in private sector resulting in enhanced demand and supply gap. It is a settled principle of law that a statute has to be read as whole and no single provision can be read to arrive at a just and correct interpretation. Therefore, period of 15 years cannot be read in isolation, it has to be interpreted in the context of scheme of the law. The Act envisages a competitive market which was duly translated in the license of NTDC setting year 2012 as Commercial Market Operation Date, meaning thereby after fifteen (15) years of commencement of the NEPRA Act power market will be opened for bilateral contracting. Therefore, fifteen (15) years mentioned in the Proviso cannot be read as to disallow sales of electricity by a generation company to BPCs in the territory of a DISCO rather that no such permission will be required after 15 years of commencement of the NEPRA Act. Further, it is pertinent to mention that arrangement of supply of power from MEL to its BPCs is in place since 1998. After enactment of the NEPRA laws, this arrangement has been allowed under a license and since then there is no change in this arrangement and in this LPM no new BPC has been added. Foregoing in

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view, the Authority is of the considered opinion that objections of LESCO are not valid.

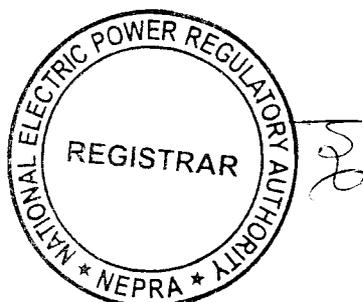
(v). In view of the above, the Authority considered it appropriate to process the LPM of MEL as stipulated in the Licensing Regulations and the Distribution Rules.

**(E). Analysis of the Authority**

(i). The Authority examined the entire case in details including the already granted distribution licence, generation licence, the communicated LPM, comments of the stakeholder and relevant rules & regulations.

(ii). The main features of the application under consideration are that the licensee/MEL is an SPP and was granted a generation licence (No. SGC/010/2001 dated December 08, 2001) and distribution licence (No. 10/DL/2006, dated October 20, 2006). The term of the distribution licence was made co-terminus with the validity of the generation licence (No. SGC/010/2001 dated December 08, 2001) of MEL or upto date on which all of the BPCs of MEL stop power purchasing on a permanent basis from MEL, whichever is earlier.

(iii). In view of the expiry of the term of generation licence on December 07, 2016, MEL communicated an LPM in its generation licence on January 02, 2017, for extension of the term of its generation licence up to December 30, 2031, based on the remaining useful life of the units of its generation facility. As the term of distribution licence of MEL was linked with the term of its generation licence, accordingly, MEL also filed the current LPM in its distribution licence for extension of its term up to December 30, 2031, in order to make it consistent with the modification in the generation licence and term of the bilateral agreements for supplying continuous and reliable power to its designated BPCs.



(iv). The Authority considers that the communicated LPM regarding extension of term of distribution licence is in line with Rule-5 of the Distribution Rules which stipulates that (1). Except where an applicant for a distribution licence consents to a shorter term, the term of a distribution licence shall not be less than twenty (20) years and (2). Upon the expiry of the term of distribution licence, unless revoked earlier in accordance with these rules or the terms of the distribution licence or unless not provided for in the distribution licence, the distribution licence may be renewed by the Authority for such further term as may be deemed appropriate by the Authority in the manner provided for in the distribution licence, keeping in view the performance of the licensee during the previous term and the interests of the consumers and the electric power industry as a whole.

(v). In terms of Regulation-10(5) of the Licensing Regulations, the Authority can modify a licence subject to and in accordance with such further changes as the Authority may deem fit if, in the opinion of the Authority such modification (a). does not adversely affect the performance by the licensee of its obligations; (b). does not cause the Authority to act or acquiesce in any act or omission of the licensee in a manner contrary to the provisions of the NEPRA Act or the rules or regulations made pursuant to it; (c). is or is likely to be beneficial to the consumers; (d). is reasonably necessary for the licensee to effectively and efficiently perform its obligations under the licence; and (e).is reasonably necessary to ensure the continuous, safe and reliable supply of electric power to the consumers keeping in view the financial and technical viability of the licensee.

**(F). Approval of LPM**

(i). In view of the above, the Authority is satisfied that MEL has complied with all the requirements of the Licensing Regulations pertaining to the modification. Therefore, the Authority in terms of Regulation-10(11)(a) of the Licensing Regulations approves the communicated LPM without any changes.

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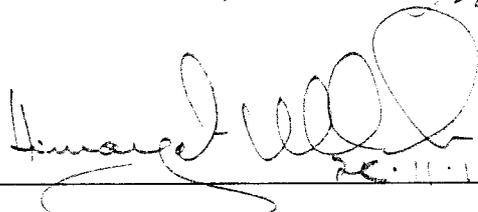
(ii). Accordingly, the already granted distribution licence (No. 10/DL/2006, dated October 20, 2006) in the name of MEL is hereby modified. The changes in "Face Sheet" of the distribution licence are attached as annexure to this determination. The approval of the LPM will be subject to the provisions contained in the NEPRA Act, relevant rules framed thereunder, terms & conditions of the distribution licence and other applicable documents.

**Authority**

Syed Masood-ul-Hassan Naqvi  
(Member)

  
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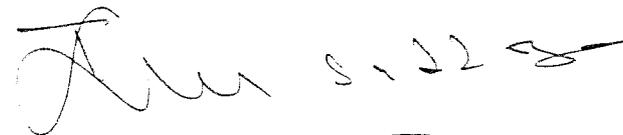
Himayat Ullah Khan  
(Member)

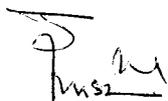
  
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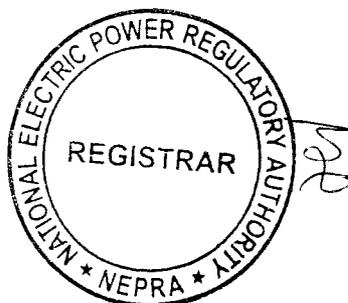
Saif Ullah Chatha  
(Member/Chairman)

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Tariq Saddozai  
(Chairman)

  
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**National Electric Power Regulatory Authority  
(NEPRA)**

Islamabad – Pakistan

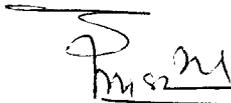
**DISTRIBUTION LICENCE**

**10/DL/2006**

In exercise of the Powers conferred upon under Section-26 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997, the Authority hereby modifies the distribution licence (No.10/DL/2006, dated October 20, 2006) granted to Monnoo Energy Limited to the extent of changes mentioned hereunder:-

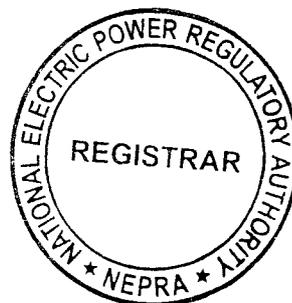
- (i). The Changes made in the Distribution Licence are described in the attached Annexure-A.

This **Modification-I** is given under my hand on 30<sup>th</sup> day of November **December Two Thousand & Seventeen.**

  
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**Registrar**





**Annexure-A**

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**Modification-I**  
**in the Distribution Licence (No. 10/DL/2006, dated October**  
**20, 2006) of Monnoo Energy Limited**

**(A). Article-5: The term and renewal of licence**

Article-5 of the Distribution Licence is modified as;

- 5.1** The term of this Distribution Licence is co-terminus with the validity of the modified term of the Generation Licence (No. SGC/010/2001, dated December 08, 2001) issued to Monnoo Energy Limited (MEL) or up to the date on which all the Bulk Power Consumers mentioned in schedule-II of the Distribution Licence stop purchasing power on permanent basis from MEL, whichever is earlier.
- 5.2** Unless suspended or revoked earlier, the Licensee may apply for renewal of the Licence within ninety (90) days prior to the expiry of the term of the Licence, as stipulated in the Licensing Regulations.

