



# National Electric Power Regulatory Authority

Islamic Republic of Pakistan

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Registrar

No.NEPRA/TRF-170/BTPL-2011/10182-10184

November 1, 2011

Subject: **Determination of the Authority in the Matter of Petition filed by Bahria Town (Pvt.) Ltd. (BTPL) for Determination of its Consumer-end Tariff for FY 2010-11 (January to June 2011) and FY 2011-12 [Case # NEPRA/TRF-170/BTPL-2011 ]**

Intimation of Determination of Tariff pursuant to Section 31(4) of the Regulation of Generation, Transmission and Distribution of Electric Power Act (XL of 1997)

Dear Sir,

Please find enclosed the subject Determination of the Authority along with Dissenting Note of Vice Chairman (18 pages) in Case No. NEPRA/TRF-170/BTPL-2011.

2. The Determination is being intimated to the Federal Government for the purpose of notification in the official gazette pursuant to Section 31(4) of the Regulation of Generation, Transmission and Distribution of Electric Power Act (XL of 1997) and Rule 16(11) of the National Electric Power Regulatory Authority Tariff (Standards and Procedure) Rules, 1998.

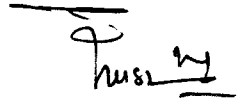
3. Please note that only Order of the Authority at para 10 of the Determination needs to be notified in the official gazette.

Enclosure: As above

Secretary  
Ministry of Water & Power  
'A' Block, Pak Secretariat  
Islamabad

CC:

1. Secretary, Cabinet Division, Cabinet Secretariat, Islamabad.
2. Secretary, Ministry of Finance, Islamabad.

  
( Syed Safeer Hussain )





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

**PETITION NO: NEPRA/TRF-170/BTPL-2011**

**DETERMINATION OF THE AUTHORITY IN THE MATTER OF PETITION FILED BY**

**BAHRIA TOWN (PVT) LIMITED  
(BTPL)**

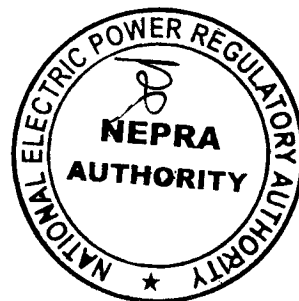
**FOR DETERMINATION OF CONSUMER-END TARIFF  
FOR FY 2010-11 (JANUARY TO JUNE 2011) AND FY 2011-12**

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**Islamabad**

**November | , 2011**

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**Determination of the Authority in the Matter of Petition Filed by Bahria Town  
(Pvt) Limited (BTPL) for Determination of its Consumer-end Tariff for FY 2010-11  
(January to June 2011) and FY 2011-12**

**CASE NO. NEPRA/TRF-170/BTPL-2011**

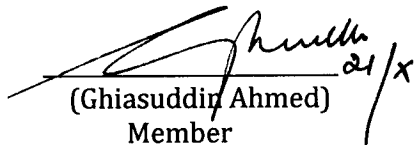
**PETITIONER**

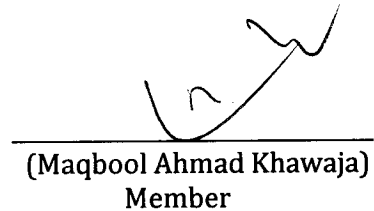
Bahria Town (Pvt) Limited (BTPL), Islamabad


**INTERVENER**

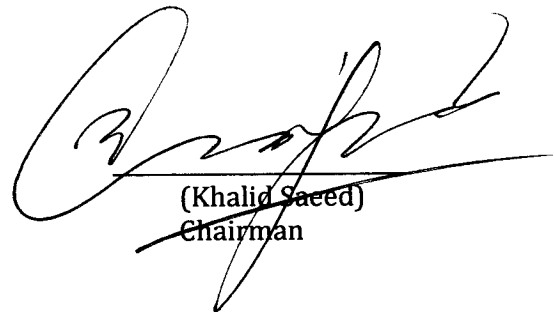
Bahria Town Residents Welfare Association (BTRWA)

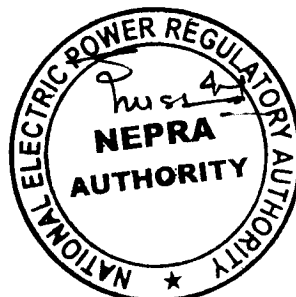
The Authority, in exercise of the powers conferred on it under Section 7(3) (a) read with Section 31 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997, Tariff Standards and Procedure Rules, 1998 and all other powers enabling it in this behalf, and after taking into consideration all the submissions made by the parties, issues raised, evidence/record produced during hearings, and all other relevant material, hereby issues this determination.

  
(Ghiasuddin Ahmed)  
Member

  
(Maqbool Ahmad Khawaja)  
Member

*My dissenting note is attached -*  
  
(Shaikat Ali Kundi)  
Vice Chairman  
01. 11. 2011

  
(Khalid Saeed)  
Chairman





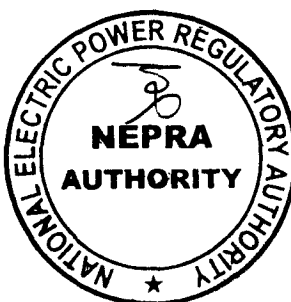
## 1. Background

- 1.1 Bahria Town (Private) Limited (hereinafter "the Petitioner") is a private Limited Company incorporated under the Companies Ordinance 1984. The Petitioner is principally engaged in the business of real estate development. The area which has been developed by the petitioner for Housing Colony namely Bahria Town was originally a part of the service territory of Islamabad Electric Supply Company (IESCO). Any distribution licensee of NEPRA is obliged to provide distribution service and make sales of electric power within its territory on a non-discriminatory basis to all the consumers who meet the eligibility criteria laid down by the Authority, however, there was no distribution network of IESCO in existence in the area of Bahria Town and consequently the residents of Bahria Town were not being provided with the requisite services by IESCO.
- 1.2 Considering the fact that IESCO is not providing distribution services to the residents of Bahria Town for the last eight years, which comes under the service territory of IESCO, the Authority in the public interest for the continuity of operation had proposed a Modification in Distribution Licence of IESCO through which the area within Bahria town for which no services were being provided by IESCO was carved out in the public interest and accordingly a Distribution Licence No. 20/DL/2010 dated 24<sup>th</sup> November 2010 was granted to Bahria Town, the petitioner.

## 2. Filing of the Tariff Petition

- 2.1 The Petitioner, being a distribution licensee of NEPRA has filed a petition as per direction of the Authority in accordance with NEPRA Tariff Standards & Procedures Rules 1998 for determination of its consumer end tariff for FY 2010-11 (January to June 2011) & FY 2011-12. The Petitioner based its tariff petition on the followings:
- IESCO is the exclusive supplier and calculations are made on existing bulk supply tariff (C-3).
  - All the financial losses shall be financed by the Petitioner. These losses shall decrease with the increase in number of consumers.
  - The future cash deficit including capital expenditures is met by the Petitioner from its own resources.
- 2.2 The petitioner has prepared the financial projections on the basis of the following assumptions:
- The entire operational deficit shall be met by the Petitioner from its own resources till the electric supply wing comes to surplus level.
  - Units sold are projected for FY 2010-11 (six months) and for FY 2011-12 as 21,720,724 kWh and 71,822,882 kWh respectively. These shall increase with the increase in number of consumers/dwellers.
  - Revenue requirement is based on the recovery of power purchase price (PPP), a portion of operating & maintenance expenses and depreciation. Return on

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investment or financial cost has not been incorporated in this proposal. Assumptions also includes the increase in PPP @ 10% during FY 2011-12, accordingly the proposed consumer end tariff is being enhanced with the same ratio.

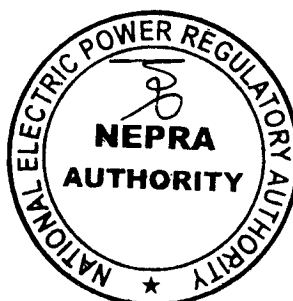
- Proposed tariff is higher by 5% than the tariff charged by IESCO from its consumers.
- Increase in consumption of 5% per month is assumed with the assumption of increase in construction and increase of dwellers on monthly basis.
- The existing tariff charged by IESCO shall remain the power Purchase Price for the purposes of this proposal. The PPP is assumed to increase with 10 % during financial year 2011-2012.
- Operating and Maintenance Expenses have been arrived at by actual current cost of division with an increase of 3% during financial year 2011-2012.
- Depreciation has been taken on the rates as per company policy: Plant and machinery 3.5%, computer & accessories 33% and other assets 15%.
- No provision has been made for Workers Profit Participation Fund.
- In view of losses, no provision for current income tax has been made in these projections.
- At this point of time return on investment has not been accounted for in view of heavy losses and below capacity supply of electricity. However this would be accounted for once break even level is achieved.
- Technical Losses of 8.5% and 6% have been assumed for FY 2010-11 and FY 2011-12 respectively.

2.3 The Petitioner has also proposed the following investment plan:

**Investment Plan**  
**Electrical External Distribution System**

Rupees

Sr. No.	Project	Equipment Cost	Labour Cost	Net Cost	Completion Status
1	Enhancement of load 132 kV Grid Station Phase IV	76,000,000		76,000,000	Dec-11
2	132 kV Grid Station Phase VIII	100,000,000		100,000,000	Dec-11
3	220 kV Grid Station Phase VIII	435,000,000		435,000,000	Dec-11
4	Garden City	128,496,640	12,850,000	141,346,640	Jun-12
5	132 kV Grid Station Garden City	120,000,000		120,000,000	Jun-13
6	132 kV Grid Station Bahria Spring	125,000,000		125,000,000	Dec-13
<b>Total</b>		<b>984,496,640</b>	<b>12,850,000</b>	<b>997,346,640</b>	



### 3. Relief Sought

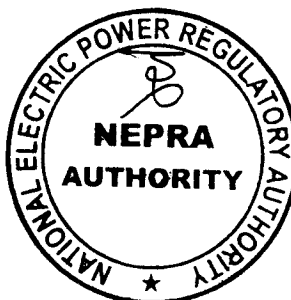
3.1 The Petitioner requested the Authority to allow the following cost and consumer-end tariff:

#### Requested Costs

Description	FY 2010-11	FY 2011-12
	Rs. in '000'	
A Power Purchase Price	181,032	646,819
B Distribution Margin:		
O&M Cost:		
Salaries, Wages & Benefits	55,104	113,514
Admin Expenses	16,960	42,048
Repair & Maintenance	4,171	8,593
Transportation	12,994	26,768
Miscellaneous Expenses	130	268
<b>Total O&amp;M</b>	<b>89,359</b>	<b>191,191</b>
Depreciation	61,676	81,241
<b>Total Distribution Margin:</b>	<b>151,035</b>	<b>272,432</b>
C Revenue Requirement (A+B)	332,067	919,251
D Operating Loss	117,918	152,026
<b>E Net Revenue Requirement (C-D)</b>	<b>214,149</b>	<b>767,225</b>

#### Requested Consumer End Tariff

Tariff Categories	FY 2010-11	FY 2011-12
<b>Residential -A1</b>	<b>Rs./kWh</b>	<b>Rs./kWh</b>
For Peak Load Requirement Upto 5 kW		
1-100 Units per month	4.58	5.04
101-300 Units per month	6.93	7.62
301-700 Units per month	11.18	12.3
Above 700 Units per month	13.95	15.35
<b>Commercial - A2</b>		
For Peak load requirement 5 kW and above		
Regular	13.65	15.02
Mosque	6.93	7.62
Public Lighting - Tariff -G	12.6	13.86

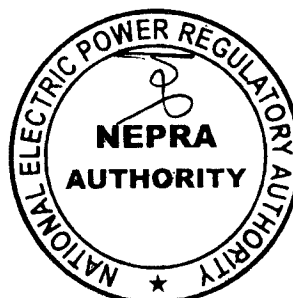


#### **4. Admission of the Petition**

- 4.1 In terms of rule 4 of the Tariff Standards and Procedure Rules 1998 (hereinafter referred as "Rules"), the Petition was admitted by the Authority on 12<sup>th</sup> April 2011 for consideration. In compliance of the provisions of sub-rules (5) & (6) of rule 4 of the Rules, notices of admission were sent to the parties which were considered to be affected or interested. The brief description of the petition was also made published in the leading national newspapers on 17<sup>th</sup> April 2011 inviting filing of intervention requests, comments/participation from general public and other stakeholders.

#### **5. Intervention Request**

- 5.1 In response to the notice of admission, Bahria Town Residents Welfare Association (hereinafter "the Intervener") filed a motion for leave to intervene which was accepted by the Authority.
- 5.2 According to the Intervener, the residents of Bahria Town will be financially affected by fixation of tariff which may be higher than that charged by IESCO from its consumers residing in the adjacent localities of Bahria Town. The principal ground is that the consumers residing in Bahria Town should not be discriminated in term of higher tariff than being paid by consumers of IESCO. The intervener requested the Authority that the Petitioner may be directed to revise the requested tariff downward to equate it with that allowed to IESCO to charge from its consumers.
- 5.3 The intervener forwarded following further comments:
- The area of housing scheme of Bahria Town (Pvt) Limited is quite small compared to the jurisdiction area of IESCO which comprises of several districts of Punjab. Therefore, the operational cost per consumer is likely to be exorbitantly higher resulting in unfair financial burden to the consumers of Bahria Town.
  - The IESCO is not generating electricity and is selling electricity to the Petitioner on bulk supply rates. Consequently there is no justification for the Petitioner to ask for tariff higher than that charged by IESCO from its consumers.
  - The residents of Bahria Town can not be forced to pay higher tariff than the consumers of IESCO residing in the immediate surrounding housing societies.
  - Since NEPRA is under obligation to protect consumers' interests it should ensure that residents of Bahria Town are not made victim of unjust and discriminated treatment in the matter of tariff for supply of electricity.

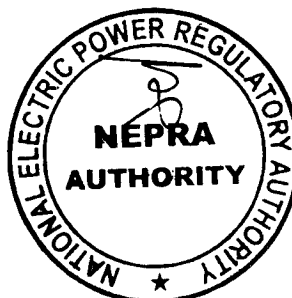


5.4 The Intervener also referred to a representation filed by it on 9<sup>th</sup> July 2010 in response to the published notice seeking comments from the stakeholders on the application for grant of Distribution License to Bahria Town (Pvt) Limited for supply of electricity in the area of Bahria Town. It was requested in the representation that before taking any decision in this regard, the following might be kept in view:

- The number of consumers residing in the Bahria Town is much less than the IESCO, therefore, the operational cost per consumer is likely to be higher thus will result in higher tariff for the residents of Bahria as against the consumers of IESCO.
- The residents of Bahria Town may be exposed to monopolistic exploitation by the management of Bahria Town.
- Bahria Town Management may use it as a tool for forcing the residents to accept unreasonable demands.

5.5 It was further requested in the representation that:

- The BTPL predominantly is a private housing project of international standards which has been launched as a package, including all civic services, utilities including but not limited to electricity only. This is why BTPL has been selling and distributing electricity within Bahria Town as a key marketing tool being part of much bigger business.
- Creation of independent electricity distribution business initially being part of package for which all development charges have already been collected by the BTPL management from the allottees / dwellers, had never been disclosed by BTPL to its clients.
- In case the Authority decided to grant Distribution License to Bahria Town, an undertaking should be obtained from the management of Bahria Town that it would charge the same tariff from the residents of Bahria Town as that of IESCO's consumers.
- Bahria town should be asked to get approved its Consumer Service Manual and provide a copy of the same to the residents.
- Bahria Town Management be asked to get approved its connection charges to be recovered from the consumers at the time of providing connection.
- NEPRA should make sure that the Bahria Town Management obtains approval of the terms and conditions for supply of electricity to its residents and comply with the Performance Standards prescribed by the Authority from time to time and protect consumers interest as per NEPRA Act and Rules made there under.

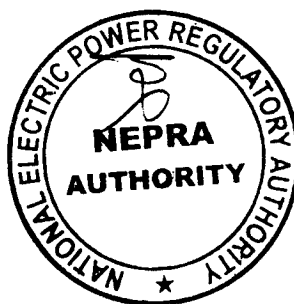






- Key business of BTPL is land development, as a part of which, it creates all amenities of life as a package and it would be a test case for NEPRA itself to fairly allocate costs and benefits on this part of overall business which constitute a negligible portion of its total business, knowingly that BTPL has not presented complete accounts of the company under which electricity distribution function takes place.
- Tariff determination on the basis of consolidated accounts of BTPL would be totally unfair, illegal and detrimental to the interests of the actual owners who have already purchased plots/houses from BTPL and paid all development costs. Setting up of electricity supply infrastructure including cost of grid stations have exclusively been borne by each purchaser and thus BTPL is not the owner but is only a manager/operator for the purpose. The payments received by BTPL from the purchasers included all development costs such as construction of roads, sewerage system, street lights, mosques, vegetation, BTPL offices, business centres, community centres, clubs, zoo, and undoubtedly construction of underground electricity, telephone and natural gas system and installation of grid station etc. etc. Once the purchasers have already paid all development costs including cost of construction of grid station and distribution services, there is absolutely no justification to seek any tariff determination on the basis of consolidated company accounts. Therefore, the only role BTPL is supposed to play is that of an operator which is already being compensated in the shape of difference between bulk purchase cost and the consumer tariff. Hence distribution of electricity should not be used to make profit at the cost of its consumers.
- The increase in tariff is not justified at all considering the business in which Bahria Town is involved, especially when there is already a difference of Rs. 1.06 per unit.
- Claim of 8.5% and 6% Transmission and distribution losses during the year 2010-11 and 2011-12 respectively is totally baseless, unjustified, unsubstantiated and unverifiable. Considering the type of distribution network i.e. underground fully secured and zero theft system, there is absolutely no proof or justification of claiming such transmission and distribution losses. These losses need to be independently verified by a competent authority in consultation with BTRWA to verify the same purely on the basis of realities on ground.
- NEPRA should acknowledge that there are electricity thefts and non payment of electricity bills mainly in the provinces of Khyber Pakhtoonkhaw and Sind. This issue alone had compelled the WAPDA to recover such losses from the consumers who regularly pay their bills and are not involved in electricity theft especially from the province of Punjab. This is a public news that all the

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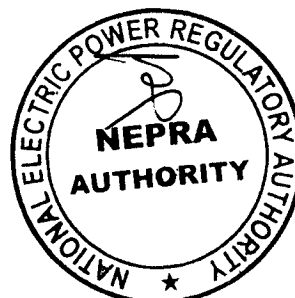




consumer electricity meters have been adjusted to register about 20% more units than actually consumed. The case of Bahria Town is totally different on two accounts; (i) there could only be negligible technical losses, (ii) zero theft and (iii) zero default on payment. These three factors must be recognized and given due credit while considering transmission and distribution losses being claimed by BTPL from its consumers.

- In order to claim distribution losses, double dipping is being done as is obvious from the petition filed by BTPL. On the one hand, abnormal difference in the units purchased and sold is being shown as 8.50 % and 6% for FY 2010-11 and FY 2011-12. On the other hand, transmission and distribution loss of Rs.15.388 million and Rs. 38.809 million for FY 2010-11 and FY 2011-12 has been claimed under the head of Administration and general expenses which tantamount to recovering the so-called distribution losses twice. If it is be considered correct, the losses being shown would result into profit rather than any loss which profit should result into reduction in consumer tariff.
- BTPL is already charging exorbitant monthly maintenance charges from the residents/dwellers which also include the provision of electricity distribution. BTPL has recently circulated two notices demanding increase in the development and monthly maintenance charges, *inter alia*, the increase in electricity infrastructure and distribution costs.
- In brief, all the expenditures shown in the petition are exaggerated with the sole purpose to reflect losses and to make an unjust claim for increase in tariff. BTPL has claimed various unjustified expenditures under the head "Administration and General Expenses". None of these expenditure match with the size of services being provided to the residents. These all expenditures works out to be 50% of the total electricity cost in a year. This by far exceeds all limits of inefficiency/mismanagement and needs to be seriously reviewed and critically analyzed, as to why such services should continue to be provided by a highly inefficient entity. Regulator may take serious note of the same.
- The monthly fuel adjustment mechanism other than pricing structure of IESCO is not justified, as the tariff difference between bulk purchase price and the consumer tariff is sufficient to justify operations and maintenance cost of electricity distribution system.
- BTPL has shown deployment/engagement of 468 employees with package and facilities shown in Note 9.1 for the purpose of distribution of electricity only, which is totally unjustified and beyond comprehension for any distribution company. As mentioned above, BTPL is already recovering all such costs through maintenance and development charges, hence showing of

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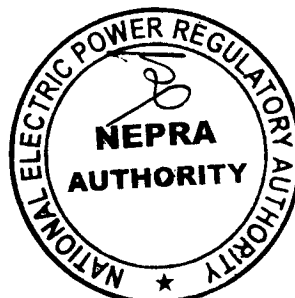


these employees against distribution function and charging their entire cost against electricity tariff is misleading, malicious and uncalled for.

- Depreciation charges against the electricity grid station and distribution network is not justified since the cost is recovered from the accumulated fund of allottees/purchasers as development costs being part of plot/house purchase price. Hence any claim against depreciation is not justified and tantamount to overstate the expenses just to (misleadingly) justify increase in tariff. It may be appropriate to refer to note # 4 to the projected accounts whereby it is stated that:

"The assets were purchased/developed over a period of time by the company (petitioner). However, these have been treated as transfer to Bahria Electric Supply (a wing of Bahria Town (Pvt) Limited after "Award of Distribution License" for the purposes of these projects".

- The above statement speaks solemnly about the sanctity of projected accounts being presented to NEPRA. This statement also augment the view of BTRWA whereby we continue to hold that not only the investment made in construction of grid station had been paid by the purchasers of plots/houses, the money accrued also belongs to the purchasers which is being repeatedly and abusively utilized by BTPL for expansion of its businesses without fully satisfying its previous consumers who actually paid for the same.
- As per NEPRA Act, BTPL being a licensee, is obligated to maintain a uniform system of accounts under NEPRA (Uniform System of Accounts) Rules, 2009. The Petition submitted by BTPL and accounts attached thereto do not conform to any accounting standards rather than complying with specified (NEPRA Uniform System of Accounts) Rules, 2009.
- BTRWA continue to claim its legitimate right of participation in all administrative, operational and management decisions having direct impact on the residents/dwellers. According to the "Distribution Code" of NEPRA, public light, operation and maintenance thereof is to be carried out on mutually agreed terms and conditions with the relevant local body desirous of establishing a public lighting system. BTRWA has never been consulted on such issues, which must be ensured by NEPRA.
- BTRWA strongly rejects the claim of BTPL for any tariff more than IESCO rates as there is already sufficient margin for recovering operating and maintenance cost against the difference of the bulk purchase price and consumer tariff.
- BTRWA strongly recommends that in principal BTPL being a private company allegedly run by most efficient management is expected to have much less operating and maintenance cost (due to all underground infrastructure), must



seek reduction in consumer tariff as compared to IESCO which bears comparatively higher overhead charges.

5.6 The intervener further submitted that BTPL has not provided the following documents:

- The copy of Bulk Purchase Agreement between IESCO and BTPL has not been provided, without which BTRWA is handicapped in putting up specific objections.
- BTPL have not provided audited annual reports to verify their credentials. There is absolutely no basis available to BTRWA, to verify the figures mentioned in the petition. BTPL ought to be directed to provide audited accounts along with supporting details to enable the intervener to verify their costs and tariff claim etc.
- Copy of bulk purchase agreement between ESCO and BTPI must be made available for further evaluation.
- Copies of audited accounts along with Memorandum and Articles of Association of BTPL with all supporting schedules must be provided to BTRWA.
- BTRWA vehemently denies the projected accounts submitted by BTPL. These are all fabricated as have been proved from the discussions above and does not conform to any standard including NEPRA (Uniform System of Accounts) Rules 2009.

## **6. Comments/Participation by IESCO**

6.1 IESCO through Counsel M/s Anwar Kamal Law Associates submitted a request vide letter No. R/NEPRA/245/11 dated 29<sup>th</sup> April 2011 for 10 days extension in time for responding to the subject Notice of Admission. The Authority considered the extension request and allowed extension of 10 days which was expired on May 12, 2011. However no comments were filed by IESCO despite giving the extension in time.

6.2 IESCO vide its letter No. 13894-95/CE/IESCO/CSD dated May 9, 2011 stated that it filed a Writ Petition No. 1411/2011 challenging the Authority Proposed Modifications (APM) in IESCO's Distribution License and the grant of Distribution License to BTPL in the Honourable Islamabad High Court. The petition was heard by an Honourable Single Bench of the Islamabad High Court on May 9, 2011 who called for a Report and Para wise Comments from the Respondents. IESCO requested the Authority that no further proceedings be held in the subject matter till the decision of the matter by the Court. IESCO submitted the following grounds in support of its claim:



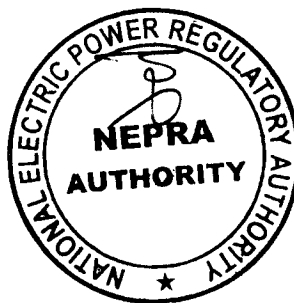


- The present proceeding before this learned Authority is outcome of a decision of the Authority dated June 24, 2010 (the 'Impugned Decision') whereby this learned Authority has granted a distribution license to Bahria Town (Private) Limited by modifying the distribution license of IESCO.
- The Applicant, feeling aggrieved by the Impugned Decision, filed a Writ Petition No. 1411/11 in the Hon'ble Islamabad High Court, Islamabad. However, the said Writ Petition was withdrawn by the Applicant on the request of Bahria Town (Private) Limited vide its letter dated June 10, 2011 that the Bahria Town (Private) Limited desires to resolve the matter through arbitration.
- The Applicant, in order to invoke the review jurisdiction of the learned Authority as an alternate remedy, filed Motion for Review under rule 3(2) of the National Electric Power Regulatory Authority (NEPRA) (Review Procedure) Regulations, 2009 (the 'Review Petition') in respect of the Impugned Decision. But as a matter of fact negotiations between the parties (Bahria Town Private Limited and IESCO) are underway, therefore, the Review Petition was also got adjourned by the Applicant in order to settle the matter through arbitration as agreed between the parties.
- Meanwhile, the captioned tariff petition of Bahria Town Private Limited was admitted and it is intimated to the Applicant through Notice of Admission dated April 19, 2011.

6.3 According to IESCO keeping in view the abovementioned facts, the proceedings of the captioned petition should be adjourned and stayed for the following among the other reasons;

- Without first getting the status of the distribution License determined by the Authority in the Review Petition, the Applicant shall be unable to participate meaningfully in the tariff approval process which fact can not be ignored as it is one of the standards set out by the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997.
- That in order to determine a comprehensive tariff and to strike a balance among the tariff standards in order to optimize the benefits to all the persons likely to be affected by the tariff, it is necessary to stay /adjourn the instant tariff proceedings to provide the parties an opportunity to settle their issues amicably through arbitration.
- That the fundamental question of the validity of distribution license of BTPL is subjudice under this Authority in the Review Petition filed by the Applicant the fate of which is yet to be determined.

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- Any determination if arrived at by Authority before getting the conclusion of the Review Petition would prejudice the case of the Applicant and result in hardships to the Applicant.
- As the parties opted to settle the matter through arbitration. Therefore, all the proposed issues which will be considered during the hearing interlinked and dependant on the result of the award and outcome of the arbitration.
- It is well settled principle of law that if the parties choose to settle their controversies by their own forums, the privities of the parties is given preference. The Applicant is ready and willing to do all the things necessary to the proper conduct of the arbitration.
- There is no reason why the instant matter should not be stayed and the matter should not be referred to arbitration.

IESCO requested that the case may be adjourned so if in case the parties cannot come to a decision or arbitration failed, the petitioner will submit the application for fixing of a date for hearing in the captioned petition, if required.

6.5 As there was no restraining order passed by the Honorable Court regarding tariff proceedings pending before the Authority, therefore, the request of IESCO was declined by the Authority. It is also a matter of record that the writ petition so filed by IESCO was dismissed as withdrawn.

6.6 IESCO filed yet another request for adjournment of proceedings on the pretext that though the writ petition has been withdrawn but they have opted to resolve the dispute through arbitration. Upon an enquiry from the Authority, the representative of Bahria Town stated that they did not want to stop the proceedings for tariff determination. Accordingly the Authority rejected the request of IESCO to stop the proceedings of the case.

## **7. Examination of pleadings/Framing of issues**

7.1 The pleadings so available on record were examined by the Authority in terms of rule 9(1) of the Rules for the purposes of arriving at a decision as to conduct of hearing or otherwise and the Authority did consider it appropriate to conduct a hearing to arrive at a just and informed decision. The Authority decided to hold the hearing in the matter on July 13, 2011 in NEPRA main office and a fourteen days notice as required under rule 9(4) of the Rules was published in the newspapers on Jun 24, 2011 inviting participation of the stakeholders. Individual letters were also sent to all concerned.

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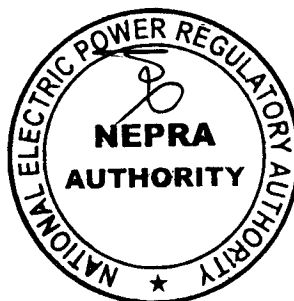
7.2 The following main issues have emerged from the contents of the tariff petition, submissions of the interveners and proceedings of the case:

- Whether the concerns raised by the Intervener BTRWA regarding differential tariff for IESCO and BTPL are justified?
- Whether the increase in tariff is justified when there already exist a difference in sale & purchase price of Rs. 1.06 & 1.17 for FY 2010-11 & FY 2011-12 respectively.
- Whether the cost of 468 employees of Electric Supply Wing of petitioner is justified?
- Whether the depreciation charges on the assets built through the contributions by the residents of Bahria Town and passing it again to the same residents/consumers is justified?
- Whether the rationale of 8.5% & 6% T&D losses for FY 2010-11 and FY 2011-12 respectively as claimed by the petitioner is justified?
- Whether monthly fuel price adjustment mechanism will be applicable to BTPL and what will be the adjustment mechanism for other components of tariff?
- Whether BTPL will purchase power from IESCO or directly from CPPA and if so, what will be the transfer price mechanism?
- Whether the BTPL has allocated (for provision of electricity) monthly service charges collected from the residents of Bahria Town?
- Whether the same terms & conditions for supply of power will be applicable for consumers of petitioner as is applicable to IESCO consumers?

## **8. Hearing**

8.1 Hearing in the matter was conducted on 13<sup>th</sup> July 2011 and was attended by the representatives from the Petitioner, intervener, IESCO, media, general public and Ministry of Water & Power. During the hearing BTPL was unable to justify the queries raised by the Authority. Similarly BTPL was unable to respond to the comments of the intervener. BTPL was therefore directed to provide following information:

- i) Actual overall and feeder-wise losses during FY 2010-11
- ii) Details of actual existing employees
- iii) Details of actual residential houses as on 30<sup>th</sup> June 2010 and 30<sup>th</sup> June 2011.





- iv) Detailed response to the points raised by the representatives of the intervener regarding grid station costs, service charges, electricity security deposits and connection charges.
- v) Details of electricity connection charges paid by the consumers according to the plot size.
- vi) Details of electricity infrastructure costs paid by the consumers.
- vii) Physical details of electricity infrastructure.

8.2 The Petitioner did not provide the requisite information within the stipulated time; therefore vide letter No. NEPRA/TRF-170/BTPL-2011/7136 dated 4<sup>th</sup> August the Petitioner was directed to submit the requisite information within 10 days of the receipt of the letter. The Petitioner could not submit the requisite information within the stipulated time and informed vide its letter No nil dated 22<sup>nd</sup> August 2011 that it was in the process of joining bits & pieces of old data to formulate a comprehensive report. Furthermore it was also engaged in the ongoing arbitration with IESCO. In view thereof the Petitioner requested the Authority to extend the submission of the report till end of 3<sup>rd</sup> week of September 2011.

8.3 The Petitioner however failed to comply with the Authority's directions for provision of requisite information, which was necessary to arrive at just and informed decision. The Authority considers that the Petitioner had no answer to the BTRWA's objections; therefore the Authority has decided to accept BTRWA's submissions.

## **9. Decision**

9.1 Based on the pleadings and record placed before it, the Authority is of the view that although, the residents of Bahria Town were located in IESCO's service territory but they were provided distribution service by the Petitioner. In order to legalize the operation of service provider and to meet with the requirements of the consumers of the said area the territory was carved out from IESCO's service territory and a separate distribution licence was granted to Bahria Town.

9.2 In Authority's opinion if the Petitioner was not granted distribution licence then IESCO would have been providing the service to the consumers of Bahria Town and the same tariff as that of IESCO's consumers would have been applicable in the instant case. The Authority feels that it would be against the principle of fairness, equity and justice to charge the differential tariffs within the same municipality limits for the same consumer categories. In view thereof the Authority is fully in agreement with the concerns raised by the intervener that notwithstanding grant of a separate distribution licence to Bahria Town, it would be reasonable and in the





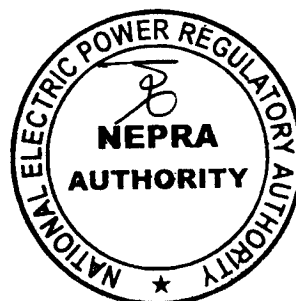
fitness of things that such consumers should also pay the same tariff as is being paid by the consumers of IESCO. Accordingly the Petitioner's request for allowing differential tariff for the consumers of Bahria Town is not accepted.

9.3 In so far as the question of distribution margin is concerned, Bahria Town is presently purchasing power in bulk from IESCO and subsequently is distributing to the residents/consumers. The Authority has noted that there is a difference (margin) of more than Rs. 1/kWh between the average sale revenue per kWh and purchase price per kWh of electricity which in Authority's opinion provides sufficient cushion to cover the prudent distribution costs of the Petitioner. The Authority has, therefore, decided that;

- a) The Petitioner shall charge only such tariff as is applicable to the relevant consumer category in IESCO.
- b) The Petitioner shall, in no way, charge any additional costs from the consumers for supply of electricity and shall stop collection of service charges, if any, on account of provision of electricity services with immediate effect.
- c) The Petitioner shall charge the same connection/reconnection charges as is applicable to the consumers of IESCO.
- d) Although the risk of default in the service territory of Bahria Town is minimum and the Petitioner may not require security deposits from the consumers but if it decides to collect the same then the rate of security deposits will be the same as is applicable in IESCO. Bahria Town shall maintain account of each consumer and shall pay return on the security deposit so collected @ KIBOR plus 2% per annum. The payment of return shall be reflected in the consumers' bill by way of adjustment in the bill payable.
- e) The format of the bill will be the same as that of IESCO.
- f) The Petitioner shall not use electricity connection as leverage against the consumers of electricity.

## **10. Order**

10.1 Bahria Town (Pvt) Limited, the Petitioner, is allowed to charge such tariff from the consumers in its service territory as is applicable to relevant consumer category of in IESCO including all taxes, levies and surcharges subject to the following conditions:





- a) The Petitioner shall, in no way, charge any additional costs from the consumers for supply of electricity and shall stop collection of service charges, if any, on account of provision of electricity services with immediate effect.
- b) The Petitioner shall charge the same connection/reconnection charges as is applicable to the consumers of IESCO.
- c) All the components of tariff shall be stated explicitly and should be free of misinterpretation.
- d) Although the risk of default by consumers in the service territory of Bahria Town is minimum and the Petitioner may not require security deposits from the consumers but if it decides to collect the same then the rate of security deposits will be the same as is applicable in IESCO. Bahria Town shall maintain account of each consumer and shall pay return on the security deposit so collected @ KIBOR plus 2% per annum. The payment of return shall be reflected in the consumers' bill by way of adjustment in the bill payable.
- e) The Petitioner shall ensure uninterrupted electricity supply to its consumers except the load shedding as scheduled by IESCO for Bahria Town.
- f) The Petitioner shall not use electricity connection as leverage against the consumers of electricity.
- g) The same terms and conditions as applicable to the consumers of IESCO shall also be applicable to the consumers of Bahria Town.

The above-referred Order of the Authority is intimated to the Federal Government for notification in the official gazette under Section 31(4) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997.



**DISSENTING NOTE OF MR. SHAUKAT ALI KUNDI,**  
**VICE CHAIRMAN/ MEMBER (LICENSING)**  
**IN THE MATTER OF DETERMINATION OF CONSUMER END**  
**TARIFF FOR M/S BAHRIA TOWN (PVT) LIMITED (BTPL), ISLAMABAD**  
**FOR FY 2010-11 (JANUARY TO JUNE 2011) AND FY 2011-12**

1. I had dissented to the Authority's decision on granting generation license to M/s BTPL, Islamabad on the ground that the Authority had no powers to modify the service territory defined in the license granted to IESCO through a determination order of the Authority. Under the NEPRA Act the licensee has the exclusive right to distribute power within its service territory. Being a Bulk Power Consumer of IESCO, M/s BTPL was involved in resale of electricity, which was an illegal activity under the NEPRA Act. However, having heard the petitioner and the intervener and perusal of the record it was observed that:

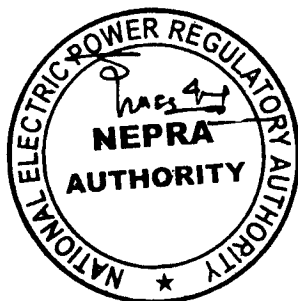
i) The Petitioner failed to provide following very significant and necessary information to arrive at just and informed decision:

- a) Details of actual existing employees
- b) Details of actual residential houses as on 30-06-2010 and 30-06-2011.
- c) Detailed response to the points raised by the representatives of the Intervener regarding grid station costs, service charges, electricity security deposits and connection charges.
- d) Details of electricity connection charges paid by the consumers according to the plot size.
- e) Details of electricity infrastructure costs paid by the consumers.
- f) Physical details of electricity infrastructure, etc. etc.

ii) The decision of the Authority for grant of generation license to BTPL was impugned by IESCO in the Islamabad High Court through a writ petition which was eventually withdrawn by IESCO and is pending arbitration by the Secretary Ministry of Water and Power.

iii) During the hearing the Petitioner could not answer to the important and much relevant queries raised by the Authority and the intervener.

2. In view of the above observations in my opinion the instant petition of the petitioner for determination of tariff does not make merit and is liable to be dismissed. *l*



*Shaukat Ali Kundi*  
(Shaukat Ali Kundi)  
Vice Chairman/Member (Licensing) 01.11.2011