



National Electric Power Regulatory Authority
Islamic Republic of Pakistan

2nd Floor, OPF Building, G-5/2, Islamabad
Ph: 9206500, 9207200, Fax: 9210215
E-mail: registrar@nepra.org.pk

Registrar

No. NEPRA/TRF-198/FESCO-2011/5292-5294
June 6, 2012

Subject: Decision of the Authority in the Matter of Motion for Leave for Review filed by Faisalabad Electric Supply Company Ltd. (FESCO) against Tariff Determination of the Authority dated 15.03.2012 [Case # NEPRA/RF-198/FESCO-2011]

Dear Sir,

Enclosed please find herewith the Decision of the Authority (02 pages) in the matter of Motion for Leave for Review filed by Faisalabad Electric Supply Company Ltd. against Tariff Determination of the Authority (dated 15.03.2012) for the FY 2011-12 in Case # NEPRA/TRF-198/FESCO-2011, for information.

Encl: As above

(Syed Safer Hussain)

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

CC:

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



**DECISION OF THE AUTHORITY IN THE MATTER OF
MOTION FOR LEAVE FOR REVIEW FILED BY FAISALABAD ELECTRIC SUPPLY COMPANY
(FESCO) AGAINST TARIFF DETERMINATION OF THE AUTHORITY DATED 15-03-2012**

1. Background:

1.1 Faisalabad Electric Supply Company (FESCO) (hereinafter referred to as "Petitioner") in pursuance of Rule 16(6) of Tariff Standards and Procedure Rules – 1998, filed motion for leave for review on 12.4.2012 against the tariff determination dated 15-03-2012 pertaining to the FY 2011-12. The motion for review was based on the following issues:

- i) FESCO tariff may be determined on annual basis at par with other DISCOs
- ii) to allow an amount of Rs. 4,187 Million as a result of claimed inconsistent application of Multi Year Tariff which includes Rs. 34 million pertaining to the assessment of O&M for the FY 2011-12, as a result of using CPI as 12.50% for June 2011 over June 2010 whereas, actually it was 13.13%
- iii) to allow extra repair and maintenance cost of Rs. 737 Million which was not considered by the Authority
- iv) to consider the FESCO's proposal with respect to the consumer discipline submitted along with the original petition

2. Proceedings:

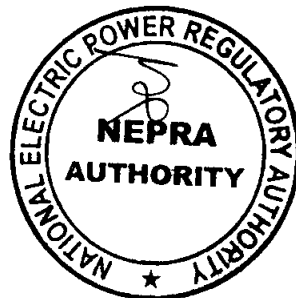
2.1 For consideration of the motion for review, a pre-admission hearing was conducted by the Authority on May 10, 2012 in NEPRA's head office. During the hearing, FESCO was represented by their Finance Director and Manager Finance.

2.2 Issue-wise discussion and decision of the Authority is given in the succeeding paragraphs.

3. Multi-Year Tariff

3.1 During the hearing the Petitioner argued that the Authority, in its determination dated March 15, 2012, declined its contentions on MYT on the grounds that these are not supported by any working and evidence. But the fact is that the Petitioner submitted a comprehensive case supported with documentary evidence.

3.2 On the issue of MYT, Para 9.5 of the determination dated 15th March, 2012, clearly states Authority's rationale pertaining to the extension of MYT regime for the remaining four months of the FY 2011-12. Since Petitioner did not submit comprehensive reconciliation statement, therefore, the Authority gave its opinion at para 9.1 of the aforementioned decision that the Petitioner's contentions was not duly supported with working and evidence. As if the Petitioner had achieved its regulatory targets in terms of T&D losses and at the same time its O&M costs were also within the acceptable range, then this must have reflected in over recoveries of assessed tariffs and eventually in its financial statements.



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3.3 The issue of inconsistent application of MYT was not raised by the Petitioner in its main Petition pertaining to the FY 2011-12. Hence, it is out of the scope of the review motion. The Petitioner's concern with respect to using CPI for June 2011 as 12.50% over June 2010, whereas, actually it was 13.13% is not correct. The Authority's determination dated 24th February, 2007 used CPI of May as reference and the same has been used for the assessment of O&M pertaining to the FY 2011-12. In view thereof the Petitioner's contention in this regard is not valid.

4. Extra Repair & Maintenance Cost

4.1 The Petitioner stated that the amount of Rs. 737 million on account of extra R&M cost was not considered by the Authority and instead allowed an overall O&M cost as per MYT mechanism. The Petitioner requested the Authority to allow extra R&M cost amounting to Rs. 737 million.

4.2 In the MYT regime, the Petitioner's O&M cost cater for the inflationary increase linked with CPI and efficiency factors. This includes a reasonable cushion for repair and maintenance as well. In view thereof the Petitioner's concern is not valid.

5. Consumer Discipline

5.1 On the issue of consumer discipline, para 10.6 of the determination dated 15th March, 2012, speaks about the back ground of the issue and clearly allows the Petitioner to submit the case separately if it feels that it can come up with a workable solution in ~~the~~ regard. In response, the Petitioner in its review motion, submitted that it has already submitted six proposals in this regard along with its main tariff petition. The Authority considers that the Petitioner's proposed six options lack evaluation of advantages and disadvantages of each option, especially in the context of the current load shedding scenario, whereby the industrial consumers are meeting their supply gap from expensive fuels. In view thereof, the Petitioner is advised to re-submit the case if it feels that it can come up with some workable proposal duly supported with proper working.

6. Decision

6.1 Having heard the Petitioner in support of its review petition, the Authority observed that the Petitioner failed to provide any additional or new evidence in support of its reconsideration request.

6.2 Keeping in view the above stated facts, the Authority is of the view that in terms of regulation 3(2) of the NEPRA (Review Procedure) Regulations, 2009, a motion seeking review of any order of the Authority is competent only upon discovery of new and important matter of evidence or on account of some mistake or error apparent on the face of record. The perusal of a determination sought to be review clearly indicates that all material facts and representation made were examined in detail and there is no occasion to amend the impugned determination. No error inviting indulgence as admissible in law has been pleaded out. Therefore, the Authority is convinced that the review would not result in the withdrawal or modification of its determination.

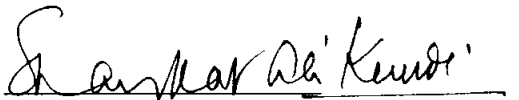


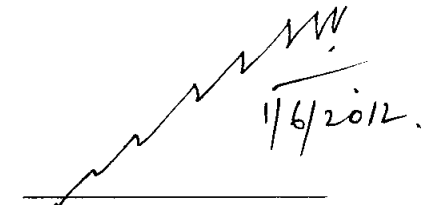
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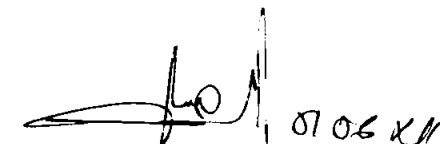
No error inviting indulgence as admissible in law has been pleaded out. Therefore, the Authority is convinced that the review would not result in the withdrawal or modification of its determination.


- 6.3 From what has been discussed above, the Authority is of the considered view that the grounds agitated in the motion for leave for review are not sufficient enough justifying the modification of the impugned determination, hence the motion for leave for review is declined.

AUTHORITY


(Shaukat Ali Kundi) 06.06.2012
Member


(Habibullah Khilji)
Member


(Khawaja Muhammad Naeem)
Member


(Ghiasuddin Ahmed)
Acting Chairman

