National Electric Power Regulatory Authority
Islamic Republic of Pakistan

Registrar

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No. NEPRA/TRF-252/HESCO-2013/6137-6139
June 12, 2014

Subject: **Decision of the Authority in the matter of Motion for Leave for Review filed by Hyderabad Electric Supply Company Ltd. (HESCO) against Tariff Determination of the Authority dated February 20, 2014 [Case # NEPRA/TRF-252/HESCO-2013]**

Dear Sir,

Please find enclosed herewith the subject Decision of the Authority (10 pages) in the matter of Motion for Leave for Review filed by Hyderabad Electric Supply Company Ltd. against Authority's Tariff Determination dated 20.02.2014 in the matter of petition filed by Hyderabad Electric Supply Company Ltd. for determination of its consumer-end tariff pertaining to FY 2013-14 in Case No. NEPRA/TRF-252/HESCO-2013 for information.

Enclosure: As above

(Syed Safeer Hussain)

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

CC:
1. Secretary, Cabinet Division, Cabinet Secretariat, Islamabad.
2. Secretary, Ministry of Finance, 'Q' Block, Pak Secretariat, Islamabad.

DECISION OF THE AUTHORITY IN THE MATTER OF MOTION FOR LEAVE FOR REVIEW FILED BY HYDERABAD ELECTRIC SUPPLY COMPANY (HESCO) AGAINST TARIFF DETERMINATION OF THE AUTHORITY DATED FEBRUARY 20, 2014

1. Background

1.1 Hyderabad Electric Supply Company Limited (HESCO), hereinafter called "the Petitioner", being a Distribution Licensee of NEPRA filed motion for leave for review vide letter no. CEO/FD/HESCO/CPC/2434-36 dated March 10, 2014 against the Authority's decision dated February 20, 2014, which pertained to the FY 2013-14. The Motion for review was based on the following issues / contentions:

i) Extension in deadline for the installation of TOU meters;

ii) Revision of T&D losses target to 23% from the determined target of 15% for the FY 2013-14;

iii) Correction of error in the calculation of Prior Year Adjustment and approval of impact of consumer mix;

iv) Revision of the Operation & Maintenance (O&M) expenses for the FY 2013-14 to Rs. 7,629 million as against the approved expense of Rs. 5,723 million;

v) Approval of actual Bad Debts written off in the FY 2012-13.

2 Proceedings

2.1 The motion for leave for review was admitted by the Authority and it was decided that a hearing opportunity would be given to the Petitioner and concerned parties. Consequently, notices of hearing were sent to the interested persons and stakeholders communicating the date and venue of hearing , which was decided to be conducted on 10th April, 2014 at NEPRA's Head Office. However, the Petitioner requested for a reschedule of hearing on two occasions and finally the hearing was convened at NEPRA Head Office on 15th May, 2014. During the hearing, the Petitioner was represented by its Chief Executive Officer, Technical and Finance team.

3. Extension of deadline for the installation of TOU meters

3.1 The Petitioner has requested the Authority to extend the deadline for the installation of TOU meters given in the tariff determination for the FY 2013-14 as the same is unachievable due to law and order situation and non-availability of TOU meters in the stock. During the hearing, the Petitioner also presented the following updated status of installation of TOU meters up to February, 2014;

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Customer Category	Total No. of TOU Connections	Connections with TOU meters installed	% installed	Connections pending installation of TOU meters
Residential	4,539	2,386	53%	2,153
Commercial	3,893	3,115	8%	778
Industrial	7,453	6,205	83%	1,248
Bulk Supply	221	95	43%	126
Agricultural	10,081	7,605	76%	2,476
Residential colonies attached to industrial premises	0	0	0	0
Total	**26,187**	**19,406**	**74%**	**6,781**

3.2 The Petitioner requested to extend the deadline for installation of TOU meters that has expired on 31st May, 2013 and no further extension was given by the Authority in the tariff determination for the FY 2013-14. The Petitioner has submitted the following plan for the installation of meters;

Sr.#	Month	No. Of TOU Meters to be Installed
1	March-14	500
2	April-14	1,000
3	May-14	1,500
4	June-14	1,500
5	July-14	2,330
	Total	6,830

3.3 It was further submitted that it has continued the campaign of consumer awareness regarding TOU meters through FM Radio channels and on the back of consumer bills and through newspapers. Furthermore, the Petitioner informed that banners in this respect have also been placed at its offices and customer service centers. On the direction of training of staff from TOU meters manufacturing companies, the Petitioner submitted that trainings are already being conducted by Regional Manager M&T on TOU meter, however, in compliance to the Authority's direction a letter has been issued by HR Directorate to Senior Manager (Material Management) for arrangement of training sessions in collaboration with the manufacturer.

3.4 The Authority has already deliberated upon the issue relevant to TOU meters with sufficient clarity at para 8 of the tariff determination pertaining to the FY 2013-14, wherein the Authority has made comments on the non-serious attitude of the

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Petitioner in implementing the Authority's directions and decided not to extend the deadline given in the tariff determination of the FY 2012-13 which had already elapsed on 31st May, 2013.

3.5 Since the revised deadline requested by the Petitioner is due to expire in a month's time, in view thereof, the Authority directs the Petitioner to submit updated status on the expiry of July, 2014 and thereafter the Authority shall decide on its future course of action. As regards the matter of consumer awareness campaign etc, the compliance shall be monitored and addressed in the next year's tariff determination for the FY 2014-15.

4. Transmission and Distribution Losses

4.1 The Petitioner pleaded that the Transmission and Distribution (T&D) losses target approved by the Authority for the FY 2013-14 is 15% as against the requested target of 23% which is unachievable. The Petitioner informed the Authority that the study of T&D losses by Power Planner International, Lahore (PPI) is in the process and as per the latest communication from PPI, the final study shall be completed by mid May, 2014, however, management of the Petitioner is pressing hard for the completion of study by April, 2014.

4.2 The Petitioner further added that in the tariff determination of FY 2013-14, the Authority has referred to the operational audit carried out by PDIP, according to which the T&D losses of the Petitioner are calculated as 9%. As per the Petitioner, this audit report is based on incomplete data as only 11 kV feeders data has been used whereas its distribution system has 132 kV feeders as well. The Petitioner presented a summary of its actual T&D losses over the last three years during the hearing;

Financial Year	Nepra Allowed T&D Losses in %	Actual T&D Losses in %
2011-12	22%	27.73%
2012-13	22%	27.34%
2013-14	15%	25.30%*

*Actual uptil April, 2014

4.3 In order to substantiate its claim, the Petitioner elaborated following reasons for high losses and requested the Authority to its revise the target of T&D losses;

- Out of total 2,868 KM transmission line 968.39 KM is of 66 KV.

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- Out of 412 feeders 280 relates to rural areas.
- The installed conductors are old and in deteriorated condition.
- Out of total 911,851 consumers 742,048 are of domestic category and out of total consumption 53.74% consumption pertains to this tariff category.
- Worst law and order situation affecting the work including kidnapping, attack on officers / offices, interference of various influential groups and lack of cooperation by law enforcement agencies.
- Extra ordinary village electrification and use of illegal electricity connections in such villages. During the hearing, the Petitioner presented that 89 villages were electrified in FY 2012-13 with 2,055 approved connections of which only 734 connections have been installed i.e., 35%.
- Influential and ethnic groups preventing the operation teams to disconnect the direct connections or even visit certain areas in cities like Hyderabad, Mirpurkhas, Nawabshah and others district headquarters.
- Theft culture due to majority of consumers living below poverty line.

4.4 During the hearing, the Petitioner also presented its efforts to reduce losses and informed the Authority that during the period of August, 2013 to April, 2014, it has detected 9,979 theft cases and billed 8.709 MkWh units and registered 20 FIRs. Furthermore, 31 officials have also been suspended on account of negligence. It was further submitted that during the current year i.e., January, 2014 to April, 2014, it has removed 34,802 Kundas and regularized 12,909 connections, disconnected 291 villages and removed 185 transformers from defaulting tube well connections.

In continuation, an updated status of Arial Bundle Cable (ABC) installation under World Bank funded plan was presented and the Authority was informed that the installation shall be completed by 31st December, 2014 with the overall losses projected to decrease by 4.2%. Similarly, the updated status of installation of Automatic Meter Reading (AMR) under USAID funded plan was also presented.

4.5 The Petitioner stated that the ground realities of MEPCO and HESCO are very different as the consumer mix of MEPCO is better with more industrial connections and MEPCO's distribution area comprises of a comparatively higher number of big cities as compared to HESCO. The Petitioner also stated that water logging and coastal belt erodes the capacity of conductor in HESCO's transmission lines resulting in high loss which is not the case with MEPCO. Concluding its request, the petitioner claimed

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that it is a gigantic task to achieve the T&D losses target of 15% as eight months of the current year has already lapsed and consequently, requested the Authority to revise the target of T&D losses to 23%.

4.6 The Authority has discussed in detail the rational for fixing target of T&D losses of as 15%, from para 10.1 to para 10.11 of its decision pertaining to the FY 2013-14. The Authority has referred to the USAID report, however, the same is not the sole basis for its assessment. The Authority has itself mentioned at para 10.11 of the said determination that some allowance of error in this report has to be given to the Petitioner and therefore the losses indicated by USAID report of 9% have been flexed to 15%. The target of 15% based on an in-house losses study conducted by the professionals of NEPRA.

4.7 The reasons given by the Petitioner for high losses and its different parameters form MEPCO are in the knowledge of the Authority and they have been given due consideration in setting up the losses target of 15%. The fact remains that the Petitioner has failed to show any serious effort to reduce administrative losses as is evident from the history of T&D losses as shown in table under para 4.2 above. The Petitioner has presented its efforts to reduce losses, however, the same has not been quantified in terms of losses reduction and the efforts appears to be futile in view of the actual losses position up till April, 2014 which is 25.3%.

4.8 Based on the fact that the Petitioner has failed to submit any new evidence rationale in support of its claim or the study of its T&D losses therefore the Authority see no reason to reconsider its assessment of 15% made in the matter of Petitioner. It is further directed to complete the study of its T&D losses. The Authority may review its assessment in this regard based on the findings of the report on prospective basis.

5. Prior Year Adjustment

5.1 As per the Petitioner , it has pointed out an error in the computation of Prior Year Adjustment (PYA) as presented in the tariff determination for FY 2013-14. Based on this error, the Petitioner has requested the Authority to revise the PYA as Rs. (1,347) million as against the assessed adjustment of Rs. (3,759) million.

5.2 The Authority has reviewed the error pointed out by the Petitioner and has identified a typographic error in the computation presented under para 12.2 of the tariff determination for the FY 2013-14. The correction of this error shall not result in any revision in the total amount of PYA assessed by the Authority. Consequently, the assessment of the Authority in respect of PYA presented under para 12.2 of the tariff determination for the FY 2013-14, For the purpose of clarity the Authority redrafts the same calculations as under;

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		Rs. Million
	Notified reference PPP during the FY 2012-13	50,567
	Assessed Distribution Margin for the FY 2012-13	6,494
	Assessed PYA for the FY 2012-13	5,611
Add ;	1st Qrt's PPP adjustment pertaining to the FY 2012-13	1,120
Add;	2nd Qrt's PPP adjustment pertaining to the FY 2012-13	308
Add;	3rd Qrt 's PPP adjustment pertaining to the FY 2012-13	(769)
Add;	4th Qrt's PPP adjustment pertaining to the FY 2012-13	(746)
Less ;	Regulated PPP recovery on notified rates during the FY 2012-13	53,118
Less;	Regulated DM recovery on notified rates during FY 2012-13	6,578
Less;	Regulated PYA recovery on notified rates during FY 2012-13	5,684
Less;	Net impact of assessed & actual Other Income for the FY 2012-13	966
Total Uncovered / (Over recovered) Costs for the FY 2012-13		**(3,759)**

5.3 As presented above, the correction of error has no effect on the gross PYA approved for the FY 2013-14. As regard the request of allowing consumer mix is concerned, the Authority decision is very clear in this regard mentioned at para 12.2 of the decision dated 20th February, 2014. The Petitioner is directed to do the compliance of the same. Until the investigative audit is carried out by the Petitioner , the Authority is constrained not to allow the same cost.

6. Operating & Maintenance Expanses

6.1 The Petitioner stated in the review motion that it had requested an amount of Rs. 7,629 million in the tariff petition for the FY 2013-14 to be allowed as Operation and maintenance (O&M) expenses. However, the Authority has assessed an amount of Rs. 5,723 million. As per the Petitioner, each component of O&M expenses was justified and resubmitted the grounds for the revision of O&M expenses under the following heads;

6.2 The Petitioner stated that the Authority has allowed an amount of Rs. 4,024 million under salaries and wages as against the requested amount of Rs. 5,823 million. Referring to the tariff determination for the FY 2013-14, the Petitioner stated that the Authority has directed it to get an audit certificate on the reported figures of financial impact of recruitments carried out during FY 2009-10 and onwards. In this regard, the Petitioner submitted that it has initiated work to compile relevant record and has contacted auditor for the report in a month's time. However, referring to the fact that the Authority has rejected the relevant certificate submitted by MEPCO, the Petitioner has requested the Authority to approve and provide TORs in this regard to clarify the scope of the audit.

6.3 The Petitioner further informed the Authority that it has completed work on the creation of separate post retirement benefit fund, however, due to the fact that the Board of Directors of HESCO is non-functional since September, 2013, therefore, it is

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constrained to set-up the registered fund. The Petitioner further referred to the issue of settlement of retirement benefits of ex-WAPDA employees and brought on record the decision taken in a meeting held under the chairmanship of Additional secretary of Water & Power wherein PEPCO's Executive Director (Legal) was directed to hold meetings with Member Finance, WAPDA to resolve the issue.

6.4 On the issue of repair & maintenance, the Petitioner submitted that the Authority has allowed an amount of Rs. 891 million against the requested amount of Rs. 972 million. The Petitioner stated that out of the requested expense, an amount of Rs. 248 million had been allocated for the maintenance of offices as well as residential buildings as most of the offices are old and burnt due to riots. As regards the remaining balance, the Petitioner stated that the balance of Rs. 742 million has been left for the maintenance of transformers, cables and meters etc. The Petitioner also pleaded that the Authority must also consider the factors of inflation in prices of transformer, copper and transformer oil and price variation due to change in specification of transformers for reducing technical losses.

6.5 The Petitioner, referring to the Authority's determination, stated that the Authority has kept in view Past Trend and comparison with other DISCOs in determining expense under this head which is not justified as the circumstances and network of HESCO is not exactly the same as other DISCOs. Based on these grounds, the Petitioner has requested the Authority to approve an expense of Rs. 972 million under Repair and maintenance.

6.6 The Petitioner stated that the Authority has allowed an amount of Rs. 293 Million under the head of other expenses whereas, most of the expenses under this head are paid on demand basis such as PEPCO supervisory charges, software license fee, NEPRA license fee and tariff petition fee, Management fee of PEPCO, Insurance charges and professional fee to lawyers. As per the Petitioner, this head also include routine office expenses such as photo state charges, office stationery, cleaning material etc which are necessary to be incurred. The Petitioner claimed that it has requested expense under this head on a conservative approach as against the actual expense for last year. Based on these grounds, the Petitioner has requested for review of expense approved under this head.

6.7 The Authority has discussed the rational for the approved O&M expenses under para 14 of the tariff determination for the FY 2013-14 with sufficient clarity. The Authority has assessed **salaries and wages** by taking into account all the approved increments of Government of Pakistan over and above the actual expense of FY 2012-13. The only difference between the Petitioner's requested expense and Authority's approved expense is in respect of cost of new recruitments and provision for post retirement benefits fund, therefore, the argument of petitioner is baseless. The Authority has given clear direction to the Petitioner to get audit certificate and create a separate fund to claim these costs. As regards the TORs of audit of replacement hiring, the professionals of NEPRA have finalized a framework to conduct this audit in

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accordance with International Standards on Auditing and the same shall be forwarded to DISCOs for implementation in due course of time. As regards the Post retirement fund, the Authority is amazed to note that the Board is non-functional for the purpose of approval of separate fund, yet the write off of bad debts has been approved by the Board on 31st May, 2013 as discussed under para 7 below. However, the Authority again directs the Petitioner to expedite the matter in this regard. The issue of retired WAPDA employees shall also be settled via brain storming session to be held in due course.

6.8 The matter of **maintenance and other expenses** has been addressed by the Authority in para 14.3 and 14.6 of the tariff determination for the FY 2013-14. Here it is pertinent to mention that the Authority do consider its assessment with other XWDISCO for the purpose of benchmarking , it does not form the sole basis of its assessment. With regard to both of these expense, the Authority had observed in the determination that the Petitioner has failed to submit any new evidence or rationale which form the basis of the Authority to review its decision in this regard. Consequently, the Authority dismisses the request of Petitioner.

7. Bad Debt Written off in FY 2012-13

7.1 The Petitioner pleaded that the Authority has declined their request for bad debts in the tariff determination for the FY 2013-14 on the grounds that the write off is abnormal and it is not clear as to what period it relates to. Explaining the basis for write off, the Petitioner submitted that the write offs pertain to multiple electricity connections of Departments of Government of Sindh (GoS) that are using electricity through both sanctioned and unsanctioned connections but avoid from payment by taking different pleas. As per the Petitioner, the issue has been raised at multiple forums, yet the GoS has not honored these decisions as enlisted below;

a) Decision of Task force constituted by National Assembly Standing Committee on Water & Power, resolved billing dispute of the period July, 2002 to December, 2004 passed in February 2005.
b) Decision on billing of Government connections for the period January, 2005 to June, 2006 undertaken by Honourable M.A Jalil, Advisor to Chief Minister Sindh on 30th June, 2006.
c) Decision on billing of Government connections for the period ending June, 2007 undertaken by the Chairman, Sub Committee of Standing Committee on Water & Power including payment of balance of Rs. 306 million by GoS on 27th June, 2007.
d) GoS filed a Civil Suit No. 351/2010 against PEPCO, HESCO and Federal Adjustor in Honorable High Court Karachi, where upon Court ordered "Status quo" to refrain federal adjustor from deduction at source.
e) Order by Honorable High Court on HESCO's request dated 24th December, 2010 to GoS for payment of current bills. However, 100% bills were not paid including

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essential connection like Hospitals, Water Supply, Drainage and scarp Tube Wells. Defaulting connection had frequently been disconnected but due to non-availability of water supply to people law and order situation arises on disconnection.

f) Intervention by the General secretary to the President of Pakistan into the matter and arrangement of an agreement between MD PEPCO and Finance Secretary GoS for resolution of billing dispute on 11th April, 2010 at Karachi. In this meeting two separate criteria were decided for payment of billing of sanctioned and un-sanctioned / direct connections, as narrated here under:-
   i) The amount billed in FY 2002-03 will be the bench mark for payment of billing sanctioned connection i.e., Average Billing per connection on the basis of amount Billed of FY 2002-03 with increase of rates as per SROs for onward period.
   ii) Billing against direct Connections will be resolved as per connected load found at site joint teams of both departments.

g) A meeting of sub Committee constituted by Counsel of Common Interest (CCI) to resolve the issue related to electricity dues of the province was held under the chairmanship of the Chief Minister Sindh on 28th January, 2013 wherein it was decided to close the matter of billing dispute upto June, 2010 as under;
   i) An amount of Rs. 19.28 billion billed against sanctioned connections for the period July, 2003 to June, 2010 was recalculated / decided on the basis of per connection billing of FY 2003-04 which came to Rs. 17.06 billion. Hence Rs. 2.2 billion was proposed to be written-off.
   ii) The billing against direct connections for the same period was Rs. 7.37 billion but Sub Committee of Counsel of Common Interest directed GoS for payment of Rs. 2.5 billion to both HESCO and SEPCO, resultantly GoS paid Rs. 1.25 billion to HESCO and Remaining Rs. 6.12 billion to be written off.

7.2 The Petitioner submitted that in the light of above decision of Sub Committee of CCI, the Board of Directors (BOD) of HESCO approved write off of Rs. 8.45 billion to settle the long outstanding dispute on 31st May, 2013. As per the Petitioner, the BOD of HESCO is empowered to approve the write offs as per Companies Ordinance 1984, which is also confirmed by Ministry of Law & Justice, GOP in memo No. 645/2012-law-1 dated 4th December, 2012 and the same has also been endorsed by Ministry of Water & Power vide memo No. 5(48)2011-B&F dated 10th December, 2012. The Petitioner further submitted that the Chief Auditor PEPCO in letter No. DPS/503-Policy/PAC/7444 dated 17th December, 2012 clarified that the BOD of DISCO's are empowered to write-off.

7.3 The Authority has briefed upon the matter in para 19.4 of the tariff determination of the FY 2013-14 wherein Petitioner was directed to submit details of nature of debts and procedures followed in write off of this huge amount. The Authority notes that the Petitioner has submitted details of

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meetings held at various forums, yet has failed to submit the ageing analysis and details of the nature of billing on these connections which caused it to be written off. Furthermore, considering the fact that the amount is significant, the Authority cannot pass on its burden to consumers without detailed verification. Based on the fact, the Authority declines the request of Petitioner and directs it to resubmit its case with afore stated evidences with the next year's tariff petition.

8. Decision

8.1 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.

8.2 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.

8.3 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.

8.4 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

12/6/14

(Major (R) Haroon Rashid)
Member

12.6.14

(Khawaja Muhammed Naeem)
Member

12/6/2014

(Habibullah Khilji)
Vice Chairman

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12.06.2014

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