



Registrar

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

No. NEPRA/R/ADG(Trf)/TRF-560/MEPCO-2021/466-468
January 12, 2023

Subject: **Decision of the Authority in the matter of Motion for Leave for Review filed by Multan Electric Power Company Ltd. (MEPCO) against Determination of the Authority for its Supply of Power Tariff under MYT Regime for the FY 2020-21 to FY 2024-25 [CASE # NEPRA/TRF-560/MEPCO-2021]**

Dear Sir,

Please find enclosed herewith subject Decision of the Authority (06 Pages) in the matter of Motion for Leave for Review filed by Multan Electric Power Company Ltd. (MEPCO) against Determination of the Authority for its Supply of Power Tariff under MYT Regime for the FY 2020-21 to FY 2024-25 in Case No. NEPRA/TRF-560/MEPCO-2021 for information.

Enclosure: As above

(Engr. Mazhar Iqbal Ranjha)

Secretary
Ministry of Energy (Power Division)
'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 MULTAN ELECTRIC POWER COMPANY (MEPCO) AGAINST DETERMINATION OF THE AUTHORITY FOR ITS SUPPLY OF POWER TARIFF UNDER MYT REGIME FOR THE FY 2020-21 TO FY 2024-25

1. Multan Electric Power Company Limited (MEPCO), hereinafter called "the Petitioner" being a distribution licensee of NEPRA filed Motion for Leave for Review, against determination of the Authority dated June 02, 2022 for its Supply of Power Tariff under the Multi Year Tariff Regime for the FY 2020-21 to FY 2024-25.
2. The Petitioner has raised the following points in its review motion;
 - i. O&M Cost
 - ii. Post Retirement Provision directly charged as "Other Comprehensive Income".
 - iii. Turn Over Tax
 - iv. Power Supply Margin
3. **Proceedings**
 - 3.1. The Motion for Leave for Review was admitted by the Authority on July 14, 2022. In order to provide a fair opportunity to the Petitioner to present its case, the Authority decided to conduct a hearing in the matter which was scheduled on August 30, 2022 at NEPRA Tower Islamabad; notice of hearing/ admission was sent to the Petitioner.
 - 3.2. The hearing was held on August 30, 2022, wherein the Petitioner was represented by its Chief Executive Officer along-with its Technical and Financial Team.
4. **Operation & Maintenance Expenses**
 - 4.1 The Petitioner has submitted that the Authority in para 36.3 of MEPCO Distribution Business MYT determination dated 02.06.2022, provided that other expenses are part of O&M costs, which are to be assessed through CPI-X formulae for the Tariff Control Period and actual cost of FY 2019-20 is used as reference cost after incorporating inflationary increase of 9.49% over the same. The Authority allowed Rs. 3,932 (M) on account of other Expenses for FY 2020-21 which is Rs. 225 (M) less than the Authority's own criteria. The Petitioner in this regard submitted the following calculation;

AS PER MEPCO

Rs. In Million

Description	2019-20
Travelling and conveyance	952
Electricity bills collection charges	453
Transportation	399
Advertising and publicity	24
Office supplies and other expenses	250



Handwritten signatures and initials



Legal and professional	39
Auditors' remuneration	3
Power, light and water	112
Computer and outside services	608
Telephone and postage	55
Management fees (Excl. PEPCO Fee)	56
Rent, rates and taxes	25
Insurance	33
Other charges (Excl. Supplemental Charges))	132
Total	3,142
CPI-X @ 9.49%	298
Total After CPI	3,440
Less Allowed	225

4.2 In the light of above, the Petitioner requested to allow Rs. 225 million in "Other Expense" for the FY 2020-21.

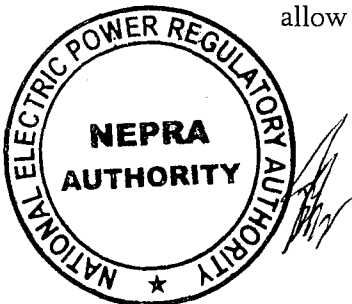
4.3 The Authority observed that in the MYT determination of the Petitioner dated June 02, 2022, while assessing the O&M Expenses of the Petitioner, the matter was decided as under;

The Authority noted that as per the approved tariff methodology, all other operating expenses are part of O&M costs which are to be assessed through CPI-X formulae for the whole tariff control period. Accordingly, for the assessment pertaining to the FY 2020-21 (reference cost), the Authority has decided to accept the actual figures of the FY 2019-20 as such and allowed an inflationary increase of 9.49 % over the same and accordingly has assessed the other O&M expenses as Rs.3,215 million for both the distribution and Supply of Power Function.

..... However, Management Fees of PEPCO, has not been considered as each DISCO is an independent entity having its own board of Directors, thus, allowing any cost on the pretext of PEPCO Management fee is not logical."

4.4 As mentioned above, the Authority while assessing the O&M expenses for the FY 2020-21, considered the actual expenses of the Petitioner for the FY 2019-20, after adjustment of PEPCO fee. As per the Audited account of the Petitioner for the FY 2019-20, an amount of Rs.210 million out of O&M expenses was capitalized, which was accordingly deducted while setting up the reference of the Petitioner for the FY 2020-21. The Petitioner, however, while claiming the difference of Rs.225 million in its MLR has ignored this fact. Thus, the claim of the Petitioner that less amount of O&M of Rs.225 million has been allowed is not justified.

4.5 Accordingly, the Authority has decided not to accept the request of the Petitioner to allow any revision in the already allowed amount of O&M expenses of the Petitioner.



Handwritten signature/initials



5. Post-Retirement Benefits charged to other comprehensive income

5.1 The Petitioner on the issue submitted that it provides Pension, Free Electricity and Free Medical Facility for all its employees. Further, the employees are also entitled for accumulated compensated absences which are en-cashed at the time of retirement up to maximum limit of 365 days. The Company's obligations under these schemes are determined annually by a qualified actuary using projected unit Credit Actuarial Cost Method. Latest actuarial valuations have been carried on 30 June 2021. The Company's net obligation in respect of defined benefits plans is calculated by estimating the amount of future benefits that employees have earned in the current and prior periods, discounting that amount and deducting the fair value of any plan assets. Past service cost is recognized immediately in the statement of profit or loss.

5.2 The Petitioner further submitted that re-measurement of the net defined benefit liability (except for compensated absences), which comprises actuarial gains and losses, the return on plan assets (excluding interest) and the effect of the asset ceiling (if any, excluding interest), are recognized immediately in other comprehensive income. The Company determines the net interest expense on the net defined benefit liability for the period by applying the discount rate used to measure the defined benefit obligation at the beginning of the annual period to the then-net defined benefit liability, taking into account any changes in the net defined benefit liability during the period as a result of contributions and benefits payments. Net interest expense and other expenses related to defined benefit plan is recognized in profit or loss. Re-measurement related to the compensated absences is recognized in the year of occurrence in the statement of profit or loss.

5.3 The Petitioner also submitted that in the light of Actuarial Valuation carried out on 30th June, 2021, it charged Rs. 5,363 (M) for the FY 2020-21 to Other Comprehensive Income. The same was audited by Auditors i.e. Riaz Ahmed & Company – Chartered Accountants. Therefore, the Petitioner has now requested to allow the mount of Rs.5,363 million, charged to the Other Comprehensive Income, for the FY 2020-21.

5.4 The Authority observed that in the MYT determination of the Petitioner dated June 02, 2022, while assessing the Post-Retirement Benefit of the Petitioner, the matter was decided as under;

“... the Authority has decided to allow provision for Post-retirement benefit for the first year of the MYT control period as per the amount requested by the Petitioner i.e. Rs.8,877 million for the FY 2020-21. However, the Petitioner is directed to deposit the amount of provision, over and above their actual post-retirement benefit payments, in the Fund and in case of failure to deposit the excess amount in the Fund, the same shall be adjusted/deducted in the subsequent tariff determination and from thereon, only actual amounts paid and amount transferred into the fund would be allowed

5.5 As mentioned above, the Authority has allowed the post-retirement benefits for the FY 2020-21, as per the request of the Petitioner, thus, the current request of the Petitioner



H. Z. Malik



to allow the additional amount of Rs.5,363 million does not come under purview of Review motion. The Authority also decided that going forward keeping in view the pension obligation of the Petitioner, amount deposited in the Fund and quantum of future tariff increases, it may allow some additional amounts in this regard for depositing in the fund, in order to protect the financial liabilities of the Pensioners. Accordingly, for the purpose of instant MLR the Authority has decided not to accept the request of the Petitioner to allow any additional amount under the head of Post-Retirement Benefits of the Petitioner for the FY 2020-21.

6. Turnover Tax

6.1 The Petitioner in its review Petition submitted that in the MYT determination, the Authority has observed that Tax Refunds are due from FBR as appearing in the Financial Statements of MEPCO. Accordingly Authority has decided to allow actual tax paid by the Petitioner net of Tax Refunds due from FBR.

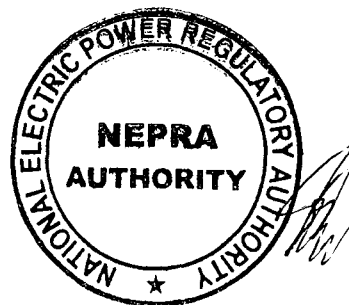
6.2 The Petitioner has further submitted that it is imperative that refunds due from FBR relates to Sales Tax Refunds outstanding from FBR under Sales Tax Act, 1990 and no refund is due from FBR under Income Tax Ordinance, 2001 (Ordinance) that can be adjusted by the Petitioner against Turnover Tax payable/paid under the Ordinance.

6.3 The Petitioner also stated that Turnover Tax amounting to Rs. 840 million has been paid & Rs. 894 million is being paid by MEPCO upto 30th June 2022, hence Authority is requested to allow the same i.e. Rs.1,734 million, being actual tax paid, for timely recovery of legitimate cost without any adjustments as narrated vide above paragraph.

6.4 The Authority regarding tax issue in the MYT decision of MEPCO dated 02.06.2022, has decided as under;

Regarding Turnover Tax, the Authority while going through the financial statements of the DISCOs including the Petitioner, has observed that significant amount of tax refund is appearing from FBR. In view thereof, the Authority has decided to allow actual tax paid by the Petitioner net off of the amount of Tax Refund outstanding from FBR, if any, once the Petitioner provides detail of actual tax assessments vis a vis tax paid for the last five years. Accordingly, the Petitioner is directed to provide details of actual tax assessments, tax allowed and the amount of tax paid for the last five years.

6.5 The Petitioner although has submitted that no refund is due from FBR under Income Tax Ordinance, 2001 (Ordinance) that can be adjusted by the Petitioner against Turnover Tax payable/paid under the Ordinance, however, as per note 21 of the Audited Financial statements of the Petitioner for the FY 2019-20 , the tax refunds also include amount on account of Income Tax as reproduced below;



Handwritten signature and initials



21. TAX REFUNDS DUE FROM GOVERNMENT

Income tax	2,551,409,801	1,868,796,960
Sales tax	2,069,701,801	4,810,490,611
	<u>4,621,111,602</u>	<u>6,679,287,571</u>

6.6 The Petitioner is therefore again directed to provide complete reconciliation of the amount of tax assessment, tax paid, tax allowed by the Authority and the amount appearing as advance income tax in its financial statements. The Authority would consider this issue once the aforementioned details are provided by the Petitioner based on its Audited accounts for the periods.

7. Supply Margin

7.1 The petitioner submitted that according to Para 16(2) of the NEPRA Guidelines for determination of consumer end tariff (Methodology and process), tariff should allow the licensee, a rate of return, which promotes continued reasonable investment in equipment and facilities for improved and efficient service. The Petitioner further submitted that it is important that returns provided to the Company commensurate with the risks associated with the sector. The rate of return should provide for a return which is proportionate with the prevailing cost of funds being incurred by the Company and with the risk involved in delivering the utility services.

7.2 The Petitioner also submitted that the Regulator allows Return on Rate Base (RORB) as a return on Assets which are kept by a distribution company which does not cover the return to a separate entity carrying out a separate business of Power Supply. The Petitioner submitted that the Authority will definitely allow Power Supply margin to the other parties which will enter into the market only to carry out Power Supply business to the regulated consumer. Therefore, to provide incentive and level playing field, the Authority is requested to allow Power Supply Margin to MEPCO.

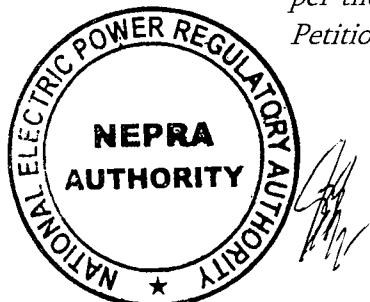
7.3 The Petitioner submitted that the Regulator has not provided any guidelines regarding Return to the Power Supply Business, therefore, MEPCO requests Power Supply Margin @ 1.5% of the Power Purchase Price invoiced to Power Supply Business of MEPCO.

Rs. In Million

Description	2020-21	2021-22	2022-23	Total
PPP Determined	253,741	253,741	427,744	935,226
PSM @ 1.5%	3,806	3,806	6,416	14,028

7.4 The Authority in the MYT decision of the Petitioner for its Supply of Power function dated 02.06.2022, has adjudicated on the issue as hereunder;

The Authority observed that the Petitioner has been allowed return on its Rate Base as per the Authority's approved WACC and the same has been included as part of the Petitioner's Distribution function revenue requirement. Although, the function of sale



Handwritten signature



of electric power traditionally being performed by the Distribution Licensees has been amended under Section 21(2)(a) of the Amended Act, however, the amended Act, also under proviso to Section 23E(1), provides that holder of a Distribution license on the date of coming into effect of the Amendment Act, shall be deemed to hold a license for supply of electric power for a period of five years from such date. Thus, all existing Distribution Licensees have been deemed to have Power Supplier Licenses, to ensure distribution licensees earlier performing both the sale and wire functions, would continue to do so. Hence, practically there is no change in the overall nature of operations or functions being performed by the existing DISCOs, therefore, allowing any separate margin to the Petitioner for its Supply function, considering the fact that it has been allowed return on its overall rate base, does not merit consideration.

- 7.5 As mentioned above, return on all Assets of the company i.e. for both the Distribution & Supply of Power functions was built in the tariff, therefore, allowing any separate return / margin for supply of power function would result in duplication of cost. Further, the Petitioner has not raised any new grounds in the MLR that would result in modification or revision of the Authority's earlier decision and has just reiterated its earlier submissions. Therefore, the request of the Petitioner to allow separate margin for supply of power function as a certain % of Power Purchase Price is declined.
8. 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

Mathar Niaz Rana (nsc)
Member

Rafique Ahmed Shaikh
Member

Engr. Maqsood Anwar Khan
Member

Tauseef H. Farooqi
Chairman

