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PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY

NOTIFICATION

Islamabad, the 27th May, 2022

S. R. O. 659(I)/2022.—In pursuance of Sub-Section 7 of Section 31 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), NEPRA hereby notifies the Decision of the Authority in the matter of Motion filed by the Federal Government with respect to Recommendation of Extension of Incremental Consumption Package for K-Electric Industrial Consumers including 131 Consumers of XWDISCOs.

2. While effecting the Decision, the concerned entities including Central Power Purchasing Agency Guarantee Limited (CPPAGL) shall keep in view and strictly comply with the orders of the courts notwithstanding this Decision.

[No. NEPRA/TRF-100/8175.]

SYED SAFEER HUSSAIN,
Registrar.

1237 (1—11)

Price : Rs. 20.00

[7906 (2022)/Ex. Gaz.]

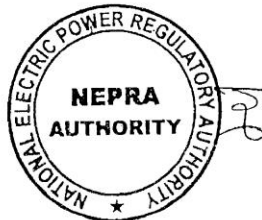
National Electric Power Regulatory Authority
(NEPRA)

DECISION OF THE AUTHORITY IN THE MATTER OF MOTION FILED BY THE FEDERAL
GOVERNMENT WITH RESPECT TO RECOMMENDATION OF EXTENSION OF
INCREMENTAL CONSUMPTION PACKAGE FOR K-ELECTRIC INDUSTRIAL CONSUMERS
INCLUDING B1 CONSUMER OF XWDISCOs

Islamabad
January¹¹, 2022

1. Background

- 1.1. The Ministry of Energy (MoE) Power Division (PD) vide letter dated September 14, 2021 has submitted a Motion with respect to recommendation of extension of incremental consumption package for K-Electric industrial consumers.
- 1.2. The Ministry in the Motion submitted that ECC of the cabinet has approved the proposal of Power Division vide case No. ECC-310/27/2021 dated August 16, 2021 for incremental consumption package for industrial consumers of K-Electric, with the direction to NEPRA for verification of marginal cost of K-Electric and provision of appropriate adjustment mechanism. The decision of the ECC has been ratified by the Cabinet vide case No.773/27/2021 dated 24.08.2021.
- 1.3. In view thereof and pursuant to, inter alia, Section 7 & 31 of NEPRA Act, the Ministry has requested NEPRA to verify/ determine the marginal cost of K-Electric and provide appropriate adjustment mechanism to implement incremental consumption package for Industrial consumers of K-Electric for subsequent notification by the Federal Government.
- 1.4. The Ministry of Energy, also provided copy of the "Summary for the ECC of Cabinet", through which the incremental consumption package for industrial consumers of K-Electric was proposed.
- 1.5. The package as approved by the ECC of the Cabinet is as under;
 - i. Rate of Rs.12.96 / Kwh shall be charged to industrial consumer categories (B1, B2 B3,B4 & B5) of K-Electric from 1st July, 2021 to 31st October, 2023, for off-peak incremental consumption basis over their consumption in corresponding months of period March 2019 to February 2020. New consumers having no reference consumption available in period of March 2019 to February 2020 shall be offered the same package through slab-wise consumption structure. The package will be applicable to all hours of the day, during the period in which time of use tariff for industrial users remains discontinued
 - ii. Budget the additional cumulative subsidy of approx. Rs.11.2 billion, on account of difference of Rs.12.96 /kWh and claimed marginal cost of Rs.14.61 /kWh, for extension of incremental consumption package for industrial consumers K-Electric (1st July 2021 till 31st October 2023). The marginal (variable) cost of Rs.14.61/kWh, to be utilized for computation of subsidy, shall be verified by NEPRA. Further, NEPRA shall provide appropriate mechanism for adjustment, keeping in view existing NEPRA determinations for K-Electric.
 - iii. For Industrial Consumers of K Electric & XWAPDA DISCOs, only positive fuel price adjustments shall be passed on incremental consumption to the consumers availing the incremental consumption package.
 - iv. Rate of Rs.12.96 (KWh shall be charged to existing B1 (Non-ToU) industrial consumers of XW-DISCOs & K-Electric from 1st July, 2021 to 31st December, 2021 for incremental consumption basis over their consumption in corresponding months of period July 2019 to December 2019. B1 (Non-ToU) consumers having no reference consumption available in period of July 2019 to December 2019 shall be offered the same package through slab-wise consumption structure.



- v. Existing B1 (Non-ToU) consumers converting to ToU metering arrangement, shall be offered the same package at the concessionary rate of Rs.12.96/kWh for off-peak incremental consumption through slab-wise consumption structure till the applicability of incremental consumption package for XW-DISCOs and K-Electric respectively. The package will be applicable to all hours of the days during the period in which time of use tariff for industrial users remains discontinued.
 - vi. Budget the cumulative subsidy of approx. Rs.4.1 million as a result of application of incremental consumption package for B1 (Non-ToU) industrial consumers of K-Electric (1st July 2021 till 31st December 2021).
 - vii. For Zero Rated Industrial (ZRI) consumer categories, the incremental consumption package shall not be applicable from FY 22.
- 1.6. The Ministry further submitted that the above decision of the ECC, has been ratified by the Federal Cabinet dated 24.08.2021.
2. **Proceedings**
- 2.1. The Authority, considering the fact that impact of any adjustments has to be made part of the consumer end tariff, decided to conduct a hearing in the matter in order to provide an opportunity of hearing to all the concerned and meet the ends of natural justice.
- 2.2. Hearing in the matter was accordingly scheduled on October 21, 2021 through Zoom; Notice of admission / hearing along-with brief description of Motion filed by the MoE were published in newspapers and also uploaded on NEPRA website; Individual notices were also issued to stakeholders & interested parties.
3. **Issues of Hearing**
- 3.1. For the purpose of hearing, and based on the pleadings/record, following issues were framed to be considered during the hearing and for presenting written as well as oral response;
- i. What shall be the mechanism for adjustment in tariff for the incremental sales?
 - ii. What shall be the mechanism for verification of marginal variable cost for the incremental sales?
4. **Filing of Objections & Comments**
- 4.1. Comments/objection, if any, were desired from the interested person/party through publication of notice for hearing. In response thereof, written comments were received from Pakistan Association of Large Steel Producers, wherein it has been submitted that the Government can utilize the surplus generation capacity by facilitating domestic steel industry with subsidized electricity prices like government is already providing to some other sectors. The energy tariffs in Pakistan are highest in Regions and domestic steel industry is jeopardized by the high electricity prices. The ECC of the Cabinet approved the extension of incremental consumption package, however, no notification has been issued so far for continuation of this package. It has also been submitted that with increase of Rs.2.97/kWh in prices of electricity from October 2021, the cost of steel would increase by



around Rs.4,000/ton. Accordingly, it has been requested that electricity be provided to industry at lower rates and notification for extension of electricity package be issued at the earliest.

- 4.2. The Authority observed that incremental consumption package for industrial consumers of XWDISCOs till October 2023, has already been decided by the Authority vide decision dated 01.12.2020. Further, the Motion filed by the MoE and request of K-Electric for extension of abolishment of time of use tariff scheme till June 2022, for Industrial consumers of XWDISCOs and K-Electric has already been decided by the Authority vide decision dated 17.06.2021.

5. Discussion on issues

- 5.1. On the basis of the pleadings, available record, evidence produced during the course of hearing and afterwards, the issue-wise findings are as under;

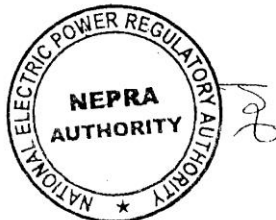
- i. What shall be the mechanism for adjustment in tariff for the incremental sales?
- ii. What shall be the mechanism for verification of marginal variable cost for the incremental sales?

- 5.2. The MoE was represented, during the hearing, by its Additional Secretary, Joint Secretary and other financial and technical team. Hearing was also attended by K-Electric, XWDISCOs, General Public and representatives of Media. The representative of the MoE submitted that around 18% growth was witnessed during previously allowed package in 2019, and the same proxy has been used as no other direct measure for the growth elasticity is available. It has also been submitted that as per analysis, if the growth owing to winter package increases over 100% of the projected growth of around 16-18%, than in the month of January 2021, there could be incremental requirement of RLNG, otherwise, local gas and coal would be used for marginal costs.

- 5.3. Upon inquiry from the Authority regarding lifting of AT&C based load shedding to increase sales, it was explained by the MoE that AT&C based load shedding is carried out in those areas where recovery percentage is very poor and if recovery is not improved, supply of additional electricity in these areas would result in additional losses. The Authority, however, observed that despite AT&C based load shedding, there has been no improvement in recoveries, rather feeders with better recoveries and losses have gone worse. The Authority therefore considers that the Ministry may explore the options of reducing the AT&C based load shedding, which may not only result in improved sales growth but may also result in improved recoveries. Hence, the requirement for allowing such incentive packages may not arise, thus reducing the burden of additional subsidies on national exchequer.

- 5.4. Regarding Mechanism for adjustment in tariff and verification of Marginal cost, the MoE submitted that NEPRA shall decide the same.

- 5.5. K-Electric during the hearing submitted that at the time of discussion the instant package, fuel prices were different. However, since the prices have now gone up, therefore, the impact of the same would eventually go into subsidy. Thus, the package should be implemented with full information and facts & figures. K-Electric further submitted that marginal cost is not applicable in case of KE, as sent out growth has already been captured



in the MYT of K-Electric, therefore, difference between the discounted price of Rs.12.96/kWh and the determined tariff should be picked up by the GoP as part of TDS.

- 5.6. K-Electric, during the hearing also requested to have further discussions with NEPRA and CPPA-G/ MoE in order to come up with a plausible solution. Subsequently, a meeting was held in NEPRA involving representatives of K-Electric, and CPPA-G/ the MoE. Pursuant thereto, K-Electric vide letter dated 29.10.2021 submitted its written comments; a brief of which is as under;

5.7. Mechanism for adjustment in Tariff

- 5.7.1. KE submitted that within its MYT, NEPRA has determined a base tariff, wherein NEPRA has considered sales growth and sent out targets for FY 2017 to FY 2023 and accordingly determined a price cap tariff with appropriate adjustment mechanism. Therefore, the benefit of increased sales is already absorbed in KE's determined tariff. In this regard, compound annual growth rate (CAGR) of sent out of 4.50 % (FY 16 to FY 21) has been assumed in tariff, whereas the actual growth has been 3.33 % (FY 16 to FY 21). Important to note that:

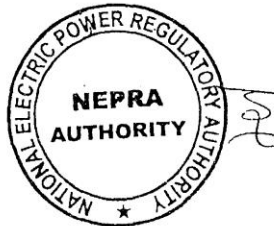
- ✓ KE suffered loss of sent out due to COVID-19 in FY 2020 due to unforeseen reason which is beyond KE's control, however, the impact/adjustment has not yet been allowed.
- ✓ No revision in sent-out targets was made when the earlier ISP Package PKR 3 / kWh, applicable at the time of determination of MYT targets, was removed in 2018/19.

- 5.7.2. Accordingly, there is no mechanism to exclude incremental sales within the MYT. Further, if incremental sales has to be separately treated through a new mechanism, then recovery of following components of tariff already absorbed in MYT based on sent out growth, shall be added back to tariff on quarterly basis as part of un-recovered cost : O&M, RoRB, Depreciation, Base Rate and Bad Debts.

5.8. Bifurcation of growth due to Industrial package

- 5.8.1. K-Electric also stated that it is a fact that government policies, including Industrial package, have played a key role to accelerate the industrial growth. In this regard, we understand that the factors which contributed to growth in Industrial sector in FY 2021 include organic growth, increase in economic activity after COVID-19, Government policies to support the same including lower KIBOR Rates, industrial packages, shutdown of economy in other parts of the world due to COVID, construction package, currency depreciation making import expensive / export attractive and shift of captive power plants to grid, etc. Since all these are complex and interlinked subjective factors hence, it is not practical to segment the growth due to industrial package and growth due to other factors.

- 5.8.2. Growth in FY 2021 increased due to increase in economic activity after COVID-19 to catch up the lost growth. Accordingly, even July to October 2021 witnessed 14% growth before introduction of Industrial package, and the growth is continuing in FY 2022 while incremental discount is not being given to consumers, due to on-going momentum of favorable government policies and macroeconomic environment.



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Description	FY 2019	FY 2020	FY 2021 ¹
Growth (year on year) in Industrial consumption	6.7%	Negative 5.7%	16.3%
Break up of growth in FY 2021¹:			
- July 2020 to October 2020 (Pre-introduction of package)			13.5%
- Nov 2020 to June 2021 (Post introduction of Package)			17.6%
July 2021 to Sep 2021 (Package not implemented yet)			17.7%

5.8.3. Further, it is important to note that the above numbers represent average growth of industrial segments. There are some consumers who have shown positive growth and some who have showed negative growth. As the package is only applicable on consumers having incremental growth, assuming all the incremental sales units as package growth would be impractical.

5.9. Verification of Marginal Variable Cost

5.9.1. K-Electric further submitted that its estimated marginal cost of PKR 14.6 / kWh, worked out based on prevailing prices at that time and forecast used by CPPA-G (FO price for FY 2022 was PKR 56,045/kWh) for calculation of PKR 12.96 / kWh. However, after increase in prices, marginal cost for July to September 2021 based on hourly generation data is given below:

- ✓ July 2021 – PKR 22.0 / kWh
- ✓ August 2021 – PKR 22.7 / kWh
- ✓ September 2021 – PKR 26.5 / kWh

5.9.2. K-Electric mentioned that working of marginal cost based on hourly generation details have been provided to NEPRA, however, it is not practical to break down incremental sales for each consumer into hours, accordingly average marginal cost based on hourly cost data for each month has been used and this is consistent with the methodology used by CPPA-G for their projections.

5.10. Adjustment of Marginal Cost

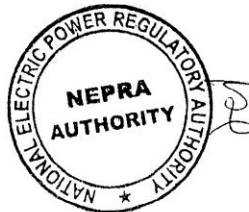
5.10.1. K-Electric also submitted that as there is no mechanism in KE's MYT to treat incremental sales at marginal costs and sales growth has already been absorbed in KE's tariff, therefore, the methodology as approved for ISP initially for November 2020 to June 2021, whereby difference in applicable rates and discounted rate was picked up by GoP as subsidy may be applied. Furthermore, positive FCA was passed on to all units and negative FCA was not passed on to Incremental units and the impact of same was included in quarterly tariff variations. In addition, if incremental sales has to be separately treated through a new mechanism, then recovery of following component of tariffs already absorbed in MYT based on sent out growth, shall be added back to tariff on quarterly basis as part of un-recovered cost: O&M, RoRB, Depreciation, Base Rate and Bad Debts and in monthly Fuel Cost adjustments such marginal cost and incremental sales unit be excluded for monthly fuel cost adjustments and no FCA be applied on such incremental consumption.

5.10.2. The submissions made by K-Electric were forwarded to the Ministry of energy for response. The Ministry in response vide email dated 04.11.2021, submitted the following:



Issue#1: What shall be the mechanism for adjustment in tariff for the incremental sales (Industrial package and winter incentive package)?		
Sr.	K.E Comments	Ministry Reply
		1. CCoE approved the para-8 of the package for industrial consumers and Para-3 of the Winter Incentive package, which inter-alia states that: <i>".....Further NEPRA shall provide the appropriate mechanism for adjustment, keeping in view existing NEPRA determinations for K-Electric."</i> Ministry of Energy (Power division) has already provided its submission to NEPRA during the hearing on the subject matter, dated 21st October 2021 and the same may be accordingly considered. 2. <u>NEPRA may verify the industrial sales growth numbers provided by K-Electric. It is pertinent to mention here that the abolishment of TOU package is still applicable during the period mentioned by K-Electric (Jul-21 till Sep-21). Provided further, that sales data for the past 5 years may also be reviewed by NEPRA accordingly.</u>
Issue#2: What shall be the mechanism for verification of marginal variable cost for the incremental sales (Industrial package and winter incentive package)		
		1. CCoE approved the para-8 of the package for industrial consumers, which states that: <i>B.The marginal (variable) cost of Rs 14.61 /kwh, to be utilized for the computation of subsidy, shall be verified by NEPRA.</i> 2. CCoE approved Para-3 of the Winter Incentive package, which inter-alia states that: <i>f.The actual marginal cost to be utilized for subsidy shall be provided by NEPRA</i> In light of cabinet decisions, <u>NEPRA may determine the marginal cost and respective mechanism based upon the relevant parameters and applicable regulatory framework for K-Electric.</u>
Issue #3: What shall be the mechanism for adjustment of marginal cost due to incremental sales in monthly FCA (winter incentive package)		
		1. CCoE approved the para-8 of the package for industrial consumers and Para-3 of the Winter Incentive package, which inter-alia states that: <i>"C. On Incremental consumption, only positive fuel price adjustments shall be passed on to the consumers availing the incremental consumption package"</i> Accordingly, the same may be considered during the determination of the instant motion.

5.10.3. The Authority observed that the MYT determinations of K-Electric for the FY 2015-16 to FY 2020-23, prescribes the following;



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f. S. Khan

Para 37.4 - MYT determination - March 20, 2017

".....Further, the existing MYT regime is so designed that the volume risk is borne by the Petitioner, thus its argument with respect to revenue loss is not justified either. In view of the aforementioned, the Petitioner request for inclusion of force majeure clause in tariff is not acceptable."

Para 19.9 & 19.10 - Review Motion determination - October 09, 2017

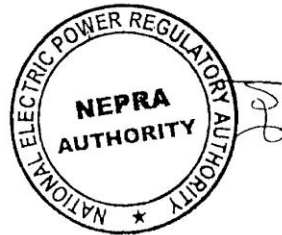
"....The instant MTY 2017 allows the Utility to maximize its profits by higher sales growth, therefore, an incentive should be provided to K-Electric to minimize load shedding in order to increase its sales and earn higher profits, which would also be benefiting the consumer in the shape of exemption from load shed and provision of reliable supply.

Accordingly, for the purpose of making future financial projections of K-Electric, the sales as projected by K-Electric have been accounted for by the Authority, for the seven years tariff control period."

- 5.10.4. The Authority noted that as per the MYT determination, a certain percentage of sales growth has been incorporated in the MYT, impact of which has been already been built in the MYT of K-Electric, therefore, the Authority considers that it would be unfair with K-Electric if the entire growth of Industrial growth over & above the reference months, i.e. March 2019 to February 2020, is taken away from K-Electric.

6. Order

- 6.1.1. The Authority after taking into account the request made the Federal Government in the Motion and during the hearing, the MYT determinations of K-Electric, submissions made by K-Electric during the hearing and afterwards and response thereto by the Ministry of Energy, decides as under;
- 6.1.2. The Authority has worked out benchmark sales by applying annual growth built in the MYT of K-Electric on monthly basis on the total actual industrial sales (excluding temporary) for the reference months from March 2019 to February 2020 (after adjusting for sales shifted to other categories). The Authority has decided that KE shall only be allowed Marginal Cost on sales above the benchmarked units and no other adjustment as un-recovered cost e.g. O&M, RoRB, Depreciation, Base Rate and Bad Debt etc., will be provided. In case K-Electric recovers any amount over & above the Marginal Cost on the incremental units either through tariff or through subsidy etc., the same would be adjusted from K-Electric subsequently. The sales above the benchmarked units shall be calculated by K-Electric, considering sales to all industrial consumers falling under Category B Industry. Following benchmark sales have been calculated as detailed above;



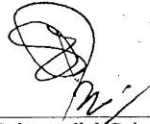
	2021-22	2022-23	2023
March		417.94	439.08
April		461.47	484.82
May		477.76	501.93
June		396.88	416.96
July	412.35	433.21	
August	381.30	400.59	
September	377.08	396.16	
October	440.05	462.31	
November	447.02	469.63	
December	417.83	438.97	
January	404.02	424.46	
February	417.76	438.89	

- 6.1.3. Here it is pertinent to mention that actual consumer wise incremental units would be worked out by K-Electric, keeping in view the reference months of March 2019 to February 2020, as prescribed in the Motion of the Federal Government.
- 6.1.4. In order to ensure that K-Electric is only allowed to retain Marginal cost on incremental industrial sales beyond the Authority's worked out benchmarks, the Authority while working out the monthly FCAs would exclude all such incremental units (after adjusting for losses) and their marginal cost. Similarly, the units and cost without such incremental sales (after adjusting for losses) would be accounted for while calculating K-Electric's quarterly adjustments. K-Electric for the purpose of subsidy claims, shall ensure that no subsidy/ tariff is claimed on incremental units over & above the Authority's allowed benchmarks, except for the difference between Rs.12.96/kWh and the marginal cost, as determined by the Authority. Marginal cost would be intimated to the Federal Government by NEPRA, every month.
- 6.1.5. Here it is also pertinent to mention that monthly FCAs already determined by the Authority, for the period for which the incremental industrial package remains applicable would be re-determined by the Authority once the instant decision is notified.
- 6.1.6. Rate of Rs.12.96/kWh shall be charged to industrial consumer categories (B1, B2 B3, B4 & B5) of K-Electric from 1st July, 2021 to 31st October, 2023, for off-peak incremental consumption basis over their consumption in corresponding months of period March 2019 to February 2020. New consumers having no reference consumption available in period of March 2019 to February 2020 shall be offered the same package through slab-wise consumption structure. The package will be applicable to all hours of the day, during the period in which time of use tariff for industrial users remains discontinued.
- 6.1.7. Rate of Rs.12.96 (kWh shall be charged to existing B1 (Non-ToU) industrial consumers of XW-DISCOs & K-Electric from 1st July, 2021 to 31st December, 2021 for incremental consumption basis over their consumption in corresponding months of period July 2019 to December 2019. B1 (Non-ToU) consumers having no reference consumption available in period of July 2019 to December 2019 shall be offered the same package through slab-wise consumption structure.

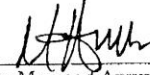


- 6.1.8. Existing B1 (Non-ToU) consumers converting to ToU metering arrangement, shall be offered the same package at the concessionary rate of Rs.12.96/kWh for off-peak incremental consumption through slab-wise consumption structure till the applicability of incremental consumption package for XW-DISCOs and K-Electric respectively. The package will be applicable to all hours of the days during the period in which time of use tariff for industrial users remains discontinued.
- 6.1.9. For Zero Rated Industrial (ZRI) consumer categories, the incremental consumption package shall not be applicable from FY 22.
7. The decision of the Authority is intimated to the Federal Government for notification in the official gazette in terms of Section 31(7) of NEPRA Act, 1997.

AUTHORITY



Rehmatullah Baloch
Member



Engr. Maqsood Anwar Khan
Member

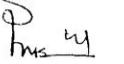


Rafique Ahmed Shaikh
Member



Tauseef H. Farooqi
Chairman




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