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The Registrar — DG (M&E) *28*
 NEPRA — *02/04/18*
 Islamabad — SACTech) - SAT-I cc. chairman
 — AEG (L&C) - LA (KIP) VC/M (M&E)
 — DRD/DR₂ - I/MF MCT)
 M(L&C) - M(CA)

Ref # KE/BPR/NEPRA/2018/130
 March 29, 2018

WITHOUT PREJUDICE

Subject: KE's Reply to Show Cause Notice under Rule 4(9) and (10) of the National Electric Power Regulatory Authority (Fines) Rules 2002 dated March 14, 2018

Dear Sir,

Please refer to the Show Cause Notice issued by NEPRA vide letter no. NEPRA/DG (M&E)/LAD-01/4158 ('the Said Notice') dated March 14, 2018 received in this office on March 15, 2018 along with a copy of NEPRA's Order ('the Order').

At the very outset, we would like to reiterate the contents of our letter # KE/BPR/NEPRA/2017/129 dated July 28, 2017 as if the same is expressly set out herein and made integral part hereof.

Further, KE's para wise response to the contents of the Said Notice is entailed below for your kind perusal and consideration:

A. Preliminary Objections

- That NEPRA has based the Said Notice on unilateral assessment, without considering KE's request for exemption due to applicability of Force Majeure under Rule 10 of the NEPRA Performance Standards Distribution Rules 2005 with respect to the situation prevailing in KE system with effect from 20th to 29th May 2017 (hereinafter referred to as the 'affected period'), which has caused outages and prevented restoration of power supplies owing to tripping of two 500 kV NTDC circuits during the affected period, communicated vide KE letters dated 22nd and 29th May 2017.
- That NEPRA's impugned/purported decision dated August 1, 2017 ('the Impugned Decision') as mentioned in Para 14 of the Order has not been received at KE's office, hence the mere rejection of the claim of Force Majeure as requested by KE is arbitrary, unilateral and behind its back.

Dy No. 3266
 Dated: 02-04-18

For info please.
04/04/2018
04/04/18

Dr. AD (ST) / AD-7

Dy/ STD

- That KE requests NEPRA to share its aforementioned decision dated August 1, 2017, upon which KE reserves the right of review as per Regulation 3 (2) of the NEPRA (Review Procedures) Regulations 2009. Further, NEPRA is also requested to keep further proceedings in the instant matter in abeyance till the time the review motion is finalized as any decision with respect to the instant matter shall be and are materially dependent upon the finality and outcome of the review motion to be filed by KE.
- That NEPRA while giving its finding mentioned in Para 20 of the Order has not considered KE's response dated May 15, 2017, through which KE informed about intermitted load shedding being conducted by KE from the period 9th to 11th May 2017 owing to tripping of two units of BQPS I and curtailed gas quota from SSGC.
- That NEPRA has incorrectly relied on average import by KE from NTDC to dismiss KE's plea that its system was affected due to low availability of power from NTDC. It is submitted that the minimum import from NTDC reduced significantly during the affected period and went down to 0 MW which corroborates with KE's contention of curtailed import from NTDC. Additionally, NEPRA has failed to consider that demand is not managed on an average basis rather the same is managed on an instant basis and hence has incorrectly concluded that supply by NTDC to KE was adequate during the affected period.
- That NEPRA has based its entire findings placing reliance on the data extracted from grid log, which does not represent feeder outage for the hour rather reflect the loading position and that too for a few High loss and Very High loss feeders, which represents less than 1% of total KE Feeders and less than 0.5% in terms of consumer base of KE. Further, instead of random selection, NEPRA team chose feeders after reviewing grid logs, findings of which cannot be replicated over the entire population. Hence, the same cannot be considered representative of the actual picture of load management carried out by KE during the affected period as outages in these areas beyond the stated load shed policy of KE for such areas is not within the control of KE due to external factors in play like operation of local mafia, fluctuation due to kunda infestation, etc.
- That NEPRA has overlooked/ignored the fact that the grid logs in KE are not designed to be used for outage management and KE uses Network Status Information System (NSIS) for logging and monitoring outages on feeder level. By doing so, NEPRA has ignored both KE's plea to not consider grid logs for the aforementioned purpose and consider the relevant data submitted by KE, which has subsequently led towards incorrect findings/ decision by NEPRA.

- That KE was never provided with a copy of the said consumer complaints on which NEPRA has based its findings, which has jeopardized KE's right of cross examining the consumers on their alleged complaints. That even the mere aversion of findings on the basis of consumer complaints/feedback is incorrect due to their inability to discern forced and planned outages. Further, if NEPRA procedurally relies on consumer complaints, then in accordance with the provisions of the NEPRA Act, it should have referred them to NEPRA's Consumer Affairs Division to conduct proceedings in accordance with Section 39(2) of the NEPRA Act. Please note that even aforementioned section of the NEPRA Act reiterate the right of a personal hearing and opportunity to cross question the consumer lodging the complaint. Further, it is pertinent to point out that the aforementioned procedure is separate and distinct from the procedure mentioned under NEPRA (Fines) Rules, 2002 and hence not maintainable.
- That NEPRA's observation that investments carried out by the KE in the distribution segment are not substantiated by the impact in terms of improvement in the performance of distribution system is unfounded as the same is based on arbitrary observations of NEPRA. Moreover, NEPRA has disregarded the improvement in KE's performance indicators (SAIDI and SAIFI) which are substantive evidence of post investment improvement in KE system as shown below:

	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	Cumulative Improvement from FY 12 (%)
SAIFI	32.49	31.27	24.72	22.21	20.53	19.61	40%
SAIDI	1858.20	1790.49	1495.35	1330.35	1210.23	1142.88	38%
Dist losses	28.63%	26.91%	24.31%	22.60%	21.20%	20.50%	28%

Further, KE also shared its investment plans with NEPRA team and offered them assistance to conduct physical survey to verify the investments made by KE. However, NEPRA team did not conduct physical survey and also ignored the details of investments submitted by KE. Therefore, in absence of survey and ignorance of details submitted by KE, it is incomprehensible as to how NEPRA has reached such conclusion in terms that these investment did not result in any improvement.

- That NEPRA has failed to disclose the reasonable cause of its belief, any particular alleged violation and or evidence to that effect which has led to the rejection of explanation offered by KE and issuance of the Show Cause Notice which is arbitrary and in violation of the mandatory requirements of Rule 4(8) & 4(9)(i) of the NEPRA (Fines) Rules 2002 ('the Fines Rules 2002').

B. Para-wise Seriatim Denial of Allegations

Without prejudice to and subject to the foregoing, our para-wise reply to the issues raised in the Said Notice are as follows:

- i. Paras 1 and 2 of the Said Notice are factual and hence do not require commentary.
- ii. With respect to Para 3 and 4 of the Said Notice, it is aptly put forward that at all material times, KE has complied with the same.
- iii. Paras 5, 6 and 7 of the Said Notice are factual and merely narrate the occurrences of proceedings in sequential order, hence do not necessitate commentary.
- iv. In response to Para 8, it is submitted that no specific facts and reasons with respect to rejection have been provided to KE to contest nor can KE comprehend as to what constitutes a satisfactory response in eyes of NEPRA as all ground facts along with supporting evidence were provided with KE's reply dated 28th July 2017 to NEPRA Explanation. NEPRA did not consider and omitted to consider KE's response. Hence it is a non-reading and misreading of the evidence.
- v. KE out rightly denies the occurrence of any violations as contended by NEPRA in Para 9 of the Said Notice and further denies and rejects the attraction of penalty.
- vi. In response to Para 10, please find below our detailed response with respect to the allegations levelled in the Order against KE.

Without prejudice to the foregoing, our para-wise reply to the analysis/findings of the Authority in the Order attached with the Said Notice are as follows:

1. In response to Para 14 of the Order, it is reiterated that NEPRA decision dated August 1, 2017 has not been received at KE's office and mere rejection of the claim of Force Majeure as requested by KE is arbitrary. Further, KE requests NEPRA to share its aforementioned decision dated August 1, 2017, upon which KE reserves the right of review as per Regulation 3 (2) of the NEPRA (Review Procedures) Regulations 2009. Further, NEPRA is also requested to keep further proceedings in the instant matter in abeyance till the time the review motion is finalized as any decision with respect to the instant matter shall be and is materially dependent upon the finality and outcome of the review motion to be filed by KE.

2. In response to Para 15 of the Order, KE reiterates that the occurrence of unprecedented and uncontrollable events during the affected period caused a cascading effect on the system, which ultimately desynchronized KE from the National Grid and forced KE to operate on island mode with significant curtailment of power import from National Grid ranging between 400 MW to 150 MW. However, NEPRA without considering the gravity of the situation prevailing in the system during the affected period has rejected the claim of de-synchronization and restriction of import as unjustified on the mere basis that KE was drawing an average of 517 MW power from NTDC during the affected period, which as per the opinion of NEPRA constitutes considerable supply. By relying on average import, which as per KE records is 493 MW, NEPRA has ignored the challenge/difficulty faced by KE to manage power imports during the time in which the supply fell to beyond '0' MW. Emphasis is placed on the data of NTDC import long with load management carried out by KE during the affected period which has already been shared with NEPRA team during their visit:

Date	Import from NTDC	KE's Load Management on Feeders (Hours)				
	Minimum load @ 15 mins	ML	HL	VHL	LL	Industrial
20 May'17	269 MW	2.5~3	5.5~6	7~7.5	0.0	0
21 May'17	209 MW	3~3.5	6~6.75	7.5~8.25	0.0	7~7.75
22 May'17	287 MW	3.5	6.5	8	2.0	2.83~4.15
23 May'17	426 MW	2.5~3.25	5.5~6.25	7~7.75	1	6~6.65
24 May'17	385 MW	3~4	5~6	6.5~7.5	0	0~6.17
25 May'17	325 MW	3.5	6.5	8.0	0~0.5	5.75~7.75
26 May'17	409 MW	2.5	5~5.5	6.5~7.5	0.0	0~6.00
27 May'17	335 MW	3~3.5	5.5~6.5	7.5~9.5	0	8~9
28 May'17	(20) MW	2~3	3.5~5	4.25~6.5	0	7.5
29 May'17	319 MW	3~8	5.5~13.5	7~15	1.5~5.5	7.5

As evident from above mentioned table, the minimum import from NTDC reduced significantly lower during the affected period and went down to 0 MW which corroborates with KE's contention of curtailed import from NTDC. Please appreciate that demand is not managed on an average basis rather the same is managed on an instant

basis. Hence, an average figure cannot be used to conclude the adequacy of supply available to KE during the affected period. It is worth mentioning that during the affected period, KE utilized all the available import from NTDC prudently, conducting load management only in instances of significant curtailment of import. Therefore, NEPRA's claim that considerable power from NTDC was available is denied as the same is based on average import which is not representative of the actual import data available. ✖

3. In response to Para 16 of the Order it is submitted that activity carried out by the water board was unpredicted and beyond cognizance of KE, which transpired upon the efflux of events that affected the power distribution system of KE negatively owing to which KE resorted to load management at associated grids in order to avoid overloading of back feeding circuits. Please note that the onus of lack of coordination cannot be attributed to KE, as the initiator of the development works was not KE. Here it is pertinent to mention that Karachi Water and Sewerage Board (KWSB) was bound to notify the concerned agencies including KE who may be affected by the development works, however it failed to notify KE prior to starting its developmental works on Queens Road/Old Town resulting in pick axing of KE's circuit. Further, please be apprised that KWSB has many governance related issues which are pending litigation in courts and hence, lack of coordination on part of KWSB cannot be assumed as negligence on part of KE. Please consider the fact that any preventive measures can only be deployed once information is available beforehand, which in the instant case was missing. Nonetheless, KE immediately dealt with the eventuality at hand vigilantly and normalized the same on 27th May 2017.
4. In response to Para 17 of the Order, we reiterate that KE has a demonstrated load shed policy according to which more than 62% of KE's service territory is exempted from load shedding. Additionally, there is no discrimination based on specific class of consumers, rather the same policy is applicable across the city with routine adjustments in load shed cycles to provide appropriate relief to consumers and accordingly even areas with low-income have low loss feeders which are exempt from load shed. Further, KE in compliance to Rule 4 (f) of the NEPRA PSDR 2005 prepares its load management schedules which aptly demonstrate the priority order and also rotate load shedding in a non-discriminatory manner. The same are shared with NEPRA on regular basis and which were also shared with NEPRA team during its visit.

It is pertinent to point out that NEPRA has coalesced two different matters i.e. KE's load shed policy and the load management conducted during the affected period. Please be apprised that owing to occurrence of the extreme events causing significant curtailment from import from NTDC during the affected period, KE temporarily carried out load management in order to avert and effectively manage the situation at hand. Further to

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avoid excessive load shed on residential and commercial consumers High loss (HL) and Very High Loss (VHL) feeders), intermittent load shed was carried out on rotational basis in low loss areas of the city including the industrial segment as well. Summary of load shed during the affected period versus the normal period is mentioned below for your perusal:

Period	Feeders				
	EL	ML	HL	VHL	Industrial
Normal Load Shed	0	3 hrs	6 hrs	7.5 hrs	0
Load Shed During Affected Period	~2 hr	3.5~3.75 hrs	6.5~6.75 hrs	8~8.25 hrs	~8 hrs

In light of above, the finding of NEPRA regarding proportionality and violation of KE's own policy is denied being unsubstantiated, unfounded and vague. Further the same is not based on appreciation of the peculiar circumstances in force during the affected period. Moreover, no evidence has been provided to the effect of establishing non-rotation of load shedding, whereas on the contrary, KE has been rotating load shed amongst the various consumers to ensure no excessive burden on a particular class of consumer, even though faced with forced outages and operating in island mode which in itself restricts the scope of maneuverability.

Additionally, NEPRA's conclusion based on the Grid Logs is unjustified as these logs are used to assess load/position of feeder. For monitoring and outage recording, KE has a separate NSIS system.. Moreover, a feeder level outage cannot be extrapolated, to determine consumer end load shedding, as a particular set of consumers may be fed by the alternate feeders since KE's distribution system is radial and being fed with electric power services at different entry / connection points, which can supply consumers with required load from different source of power when a particular source of power or feeder is out of service.

5. In response to Para 18 of the Order it is submitted that KE uses Grid Logs to assess loading position of feeder and accordingly all feeders having a load below 10 AMP at that specific point in time are recorded as "0", this is contrary to the purpose for which NEPRA has utilized the same for. Further, no law or regulation mandates sole usage of Grid Logs for assessing duration of load shed. Here, we place on record that validated data duly reflecting all tripping, faults, etc. for the selected feeders was shared with NEPRA teams for their consideration along with the request to consider the same instead of relying on the Grids Logs due to afore stated reasons. However, NEPRA has not shared any specific reasons or cause to ignore such data submitted by KE and has drawn its conclusion on the basis of Grid Logs which itself is non-reading and misreading of the evidence and hence giving rise to incorrect findings as recorded in para 18 of the Order.

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6. In response to Para 19 of the Order, it is denied that KE has violated its own load shed policy through excessive load shed on 'VHL' feeders. Here, we reiterate that NEPRA has merged KE's load shed policy with its load management during the affected period, which is altogether a separate matter. Here it is aptly put forward that in order to avoid burdening any consumer class with excessive load shed during the affected period, KE temporarily suspended its load shed policy and resumed load shed on low loss and industrial areas as well.

Further, NEPRA's findings are based on consumer's feedback, details and copies of which were never provided to KE, which has jeopardized KE's right of cross examining the consumers and providing rebuttals to the alleged complaints with supporting evidences. Further, NEPRA has conveniently and deliberately cherry picked only those feeders of HL and VHL areas on the basis of Grid Logs rather than choosing feeders on random basis. Thus, NEPRA premeditatedly selected high loss feeders, instead of random selection and hence the result cannot be extrapolated.

Regarding NEPRA's conclusion that it is not justified to carry out further load shedding on "Deh Tasir" Feeder on the grounds, such as operation of multiple mafias, installation of illegal PMTs etc., we would like to humbly submit that NEPRA should consider that delay in fault rectification was due to KE's teams lack of physical access to the area due to the presence of aforementioned elements. Such limitations have caused difficulty in operations and thus cannot be considered as carrying out of excess load shedding.

In the light of aforementioned, NEPRA is requested to consider this matter holistically and to revisit its findings mentioned in Para 19 of the Order on the basis of ground facts and realities.

7. The findings of NEPRA mentioned in Para 20 of the Order are denied as the same are based on information extracted from Grid Logs which cannot be used to assess the loading position of the feeders owing to reasons mentioned in point 5 of this response. Hence the finding of NEPRA mentioned in Para 20 of the Order is denied being without appreciation of ground facts.
8. Findings of NEPRA as mentioned in Para 21 of the Order cannot be accepted or relied upon, because the same are based on the details of feeders shared by NEPRA which makes up less than 1% of the total feeders of KE in terms of number and less than 0.5% in terms of consumer base of KE. Further, the same have not been randomly selected and hence cannot be extrapolated to the entire population. Further, NEPRA has not considered the outage data submitted by KE, where except Deh Taiser Feeder, the average outage duration for remaining feeders excluding load management was around 1.1 hours. Here

it is pertinent to mention that outages in these areas beyond the stated load shed policy of KE is due to external forces and that such abnormal conditions are not reflective of actual situation. Therefore, based on these feeders, an opinion cannot be formed on the performance of distribution operations of KE.

9. In response to Para 22 of the Order, contents of Point 5 and 6 of this response are reiterated.
10. In response to Para 23 of the Order, it is submitted that notable improvements as a result of investments made by KE can be gauged from improvement of the following performance indicators:

	FY-12	FY-13	FY-14	FY-15	FY-16	FY-17	Cumulative Improvement from FY-12 (%)
SAIFI	32.49	31.27	24.72	22.21	20.53	19.61	40%
SAIDI	1858.20	1790.49	1495.35	1330.35	1210.23	1142.88	38%
Dist. losses	28.63%	26.91%	24.31%	22.60%	21.20%	20.50%	28%

Further, NEPRA has unilaterally and without any basis determined that there has been no benefit to consumers in terms of change in category from Very high loss to high loss. This is contrary to the facts and ground realities and we fail to understand that how NEPRA has been able to claim the above. Actual reduction in load shed categories from June 2015 vs 2018 is as follows:

FEEDER CATEGORY CONVERSION	NUMBER OF FEEDERS
Very High loss to High Loss	43
Very High loss to Medium Loss	11
Very High loss to Low Loss	12
High loss to Medium Loss	63
High loss to Low Loss	27
Medium loss to Low Loss	38

11. In response to Para 24 of the Order, it is submitted that KE indeed effectively managed the situation at hand and successfully sustained the variation in supply from NTDC. Here it is pertinent to mention that NTDC is a larger and stable source of power as compared to the KE Network, thus the stability of KE network is largely dependent on NTDC interconnection. Please note that Tripping of 500/220kV interconnecting NTDC circuits in southern region creates abrupt frequency variations having the tendency to impact the system of KE, negatively. However, instead of collapsing, KE in fact supported NTDC and averted a major catastrophe such as complete blackout. This demonstration of KE

during the Force Majeure period is ample testimony to the strength of KE's system. In view of aforementioned, NEPRA is requested to consider the matter holistically as the steps taken by KE were aimed at avoiding any unfortunate situation and the same were in the best public as well as in the national interest.

C. Conclusion

From the above, we would emphasize that the Said Notice issued by NEPRA is unjustified as a matter of law or fact.

That the Said Notice is merely based on the surmises, conjectures and information mainly pertaining to the period of disturbance i.e. 21st May to 29th May 2017 which was a Force Majeure Event as per the NEPRA Performance Standards (Distribution) Rules 2005 and the Distribution Code 2005 and which was duly conveyed to the NEPRA at the time of its occurrence as required for grant of exemption for the specific events during the defined period and in view of particular circumstances.

Further, NEPRA's decision dated August 1, 2017 ('the Impugned Decision') as referred in the Said Notice, through which NEPRA has rejected KE's plea for exemption during the Force Majeure Event was never received by KE as per its records. In addition, this letter of August 1, 2017 containing the Impugned Decision was never referred to in previous correspondences nor during the hearing held subsequent to the Explanation Proceedings and has only been raised for the first time through the Said Notice. Therefore, in the absence of the receipt of the said letter dated August 1, 2017 by KE, the Said Notice becomes premature and untenable and hence should be withdrawn in the fairness of things. In these circumstances, the purported decision as mentioned in the Said Notice is not final until KE has had an opportunity to exhaust due process under the NEPRA Act by filing a review upon the receipt of the Impugned Decision.

Apart from above, NEPRA has relied incorrectly on average import from NTDC, load profile of feeders based on grid logs and has not obtained data on a random basis consistently for a period of at least a one month or more under normal conditions before reaching any conclusions. On the basis of above, KE firmly believes that the notice under reference issued to KE has been issued under a mistaken apprehension of the facts and the relevant provisions and therefore does not warrant any action against KE.

Further, NEPRA has not shared the Outcome, Findings or Recommendations of the Inspection Team with KE, thereby denying KE the right to cross examine such Outcome, Findings or Recommendations. Hence, any Outcome, Findings or Recommendations of the Inspection Team is unilateral and unfair. Accordingly, KE denies that it acted or omitted to

act in a manner which constitutes violation of the provisions of the NEPRA Act or the applicable regulatory documents so as to constitute an event or series of events falling within the purview of the Fines Rules, 2002. Further, in light of aforesaid grounds, facts and circumstances no fine is leviable on KE and NEPRA is requested to dispose off proceedings under the Said Notice. Nevertheless, we wish to obtain an opportunity of personal hearing in this matter as permitted under NEPRA (Fine) Rules 2002 in case NEPRA intends to proceed further with the matter.

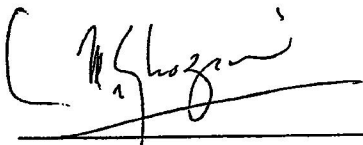
D. Prayer

In light of the aforesaid facts, grounds, reasons and explanations it is 'Prayed' that:

- (i) NEPRA accepts this Response to the Show Cause Notice and sets aside its impugned Order dated March 14, 2018 which is, inter alia, based on a letter/decision dated August 1, 2017, which was never received by KE and was therefore never in the knowledge of KE; and
- (ii) NEPRA as the Authority order the matter closed.

In addition to aforementioned, KE reserves the right to raise further grounds in the future.

Sincerely,



Muhammad Aamir Ghaziani,
Director - Finance & Regulations