

# ANWAR KAMAL LAW ASSOCIATES

Ref. No.C/NEPRA/152/15 BY FAX, EMAIL & TCS Dated: 21<sup>st</sup> March, 2015

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The Chairman,  
National Electric Power  
Regulatory Authority (NEPRA),  
Attaturk Avenue (East), NEPRA Tower,  
Sector G-5/1, Islamabad.

Subject: Public Hearing on 18.03.2015 regarding Fuel Charges Adjustment (FCA) for the month of January, 2015 for Ex-WAPDA Distribution Companies.

- Reference:
- i) Our letter R/ NEPRA/299/14 dated 23.06.2014
  - ii) Our letter VC/NEPRA/311/14 dated 01.07.2014
  - iii) Our letter VC/NEPRA/338/14 dated 21.07.2014
  - iv) Our letter VC/NEPRA/356/14 dated 09.08.2014
  - v) Our letter VC/NEPRA/376/14 dated 26.08.2014
  - vi) Our letter VC/NEPRA/406/14 dated 18.09.2014
  - vii) Our letter VC/NEPRA/407/14 dated 19.09.2014
  - viii) Our letter VC/NEPRA/416/14 dated 23.09.2014
  - ix) Our letter IAK/DR/NEPRA/425/14 dated 01.10.2014
  - x) Our letter VC/NEPRA/429/14 dated 10.10.2014
  - xi) Our letter VC/NEPRA/473/14 dated 22.10.2014
  - xii) Our letter VC/NEPRA/475/14 dated 27.10.2014
  - xiii) Our letter R/NEPRA/480/14 dated 28.10.2014
  - xiv) Our letter VC/NEPRA/541/14 dated 24.11.2014
  - xv) Our letter C/NEPRA/14 dated 18.12.2014
  - xvi) NEPRA's letter No.NEPRA/R/SAT-I/TRF-100/MFPA 16686-87 dated 24.12.2014
  - xvii) Our letter No. C/NEPRA/53/15 dated 04.02.2015
  - xviii) Our letter No. C/NEPRA/76/15 dated 16.02.2015
  - xix) Our letter No. C/NEPRA/79/15 dated 16.02.2015
  - xx) Our letter No. C/NEPRA/102/15 dated 26.02.2015
  - xxi) Our letter No. C/NEPRA/124/15 dated 10.03.2015
  - xxii) Our letter No. C/NEPRA/125/15 dated 10.03.2015

Dear Sir,

Mr. Anwar Kamal, the senior Associate of Anwar Kamal Law Associates, is a Tax Paying citizen of Pakistan and a consumer of electricity. Since 2002 he has assisted the National Electric Power Regulator Authority on various issues with regard to grant of Distribution Licenses, Tariff Determinations, Monthly Fuel Charges Adjustments etc. It is also an honor for him that Honorable Supreme Court of Pakistan and the Lahore

and Islamabad High Courts have appointed him as amicus curiae in various cases relating to the Electric Power Sector to assist the Honorable Courts.

2. It is already in the knowledge of the Authority that some citizens and consumers of electricity are working in the public interest under the umbrella of M/s Anwar Kamal Law Associates to assist the Authority by highlighting issues confronting the Power Sector of Pakistan. The provision regarding monthly Fuel Charges Adjustment within seven days was introduced in the NEPRA Act to protect the Utilities and the consumers of electricity against under/over recovery as against the Reference Tariff. At the same time this provides an opportunity to the Regulator to effectively monitor the Generation Sector. Unfortunately, we are not privy to the monitoring, if any, which NEPRA is carrying out on the basis of the data which CPPA is submitting every month. Delay in the making of the FCA decisions is also causing undue loss or gain to either the Utilities or the consumers of electricity.
3. AKLA is participating in the proceedings of Monthly Fuel Charges Adjustments since May 2014 without any gap and continuously requesting for some data to carry out further analysis to assist the Authority in identifying issues facing the Power Sector of Pakistan. Despite our repeated requests, the information has not so far been provided by NEPRA, or under its 24<sup>th</sup> December, 2014 directive, by CPPA/NTDC. Non provision of the information inevitably leads to the question as to whether NEPRA at all wants to give this information? Or even worse, whether NEPRA is regulating the Power Sector without itself having this information? In the absence of this vital information, we are constrained to believe that the capacity of the exclusive Regulator i.e. NEPRA is not up to the level required to regulate the Power Sector of Pakistan. The conclusion is inevitable that not only the Power Sector but Pakistan is suffering huge losses.
4. It is on record that Anwar Kamal Law Associates are continuously requesting the Authority to carry out detailed analysis and technical and financial audit of the issues which Anwar Kamal Law Associates are highlighting to protect the interest of consumers and the economy of the country from adverse effects. AKLA have received no decision or order of the Authority in this regard. It may be noted that AKLA are making this request as of right, as the Authority is bound under the statute to protect



the interest of consumers, inter-alia, for the reason that consumers are paying a heavy amount to the Authority to protect them against various kinds of losses. These include inefficiencies on the part of concerned parties, non-prudent decisions, non-prudent Utility operation by the Licensees, un-due profiteering by a party, mis-governance in any concerned entity, etc. AKLA have already submitted very clearly that no one is paying the Authority from its own pocket except the consumers: because the Fees which Licensees are paying the Authority are recovered from consumers through the Tariff, while the Authority allows the Licensees all Fees, including Fee to their consultants, for the purpose not only of promoting their business interest but also to guide them towards earning maximum possible profits. The detail of Fees received by NEPRA since 2006-07 is given below:

Serial No.	Year	Amount in Million Rupees
1	2006-07	359.454
2	2007-08	422.997
3	2008-09	493.213
4	2009-10	319.057
5	2010-11	358.281
6	2011-12	414.564
7	2012-13	459.604

Note: Other income of NEPRA is not included in the above table (Source: NEPRA Annual Reports).

5. **Delay in decisions regarding the Monthly Fuel Charges Adjustment:**

Anwar Kamal Law Associates have already submitted in their earlier letters that due to delayed decisions by NEPRA in the matter of Monthly Fuel Charges Adjustment, either the Utilities or the Consumers have to suffer financial loss at the cost of the other party. NEPRA inordinately delayed its decision for the Monthly Fuel Charges Adjustment for the month of December, 2014: the Notice was published on 27 January 2015 while the Hearing was scheduled for 29 January 2014. The Hearing was postponed without any reason and then held belatedly on 17 February 2015 while the Decision was announced on 04 March 2015. Due to this delayed decision by NEPRA, a huge amount, over-recovered by DISCOs in the electricity bills of December 2014 (around Rs.21 billion as per

news report) has been retained by the Utilities (DISCOs or others) for a much longer period than they were entitled to.

6. There has again been an abnormal delay in taking up the matter of Monthly Fuel Charges Adjustment for the month of January, 2015. The Notice in the matter was published in the Daily Newspapers on 12.03.2015 while the Hearing was held on 18.03.2015. From these delays it appears that there is an effort by all concerned, and the Authority is party to it, to improve the cash flows of the Utilities at the cost of consumers and that too by using non-prudent means. This is against the letter and spirit of Section 31(4) of the NEPRA Act where strict time- lines are laid down for this adjustment.

7. **Under-Utilization of Power Plants and Capacity Payments for Idle Capacity**

Under-utilization of Power Plants, and providing of electricity on 'Take or Pay' basis is quite obvious from the data submitted by CPPA. The under-utilization of the cheapest Power Plants, like Uch-II, is also obvious. There is also a totaling error in the data sheet submitted by CPPA; the total of energy supplied by GENCO-I is not correct. Anwar Kamal Law Associates are continuously highlighting the issue of under-utilization of Power Plants as this is not only causing load shedding but also increasing the per unit cost for the consumers of electricity including the industries. The high electricity cost is causing deterioration in the economy of the country, which in turn is increasing un-employment and ultimately resulting in a day by day worsening of the law and order situation. The under-utilization of 'Take-or-Pay' Power Plants is also resulting in excessive use of small in-efficient Generators, UPS etc. which not only results in un-economic expenditure for consumers but is also causing loss to the country by in-efficient burning of fuel.

8. Anwar Kamal Law Associates do not wish to re-write the issues which they have been highlighting through their letters referred to above but would like to submit that:
  - Economic Merit Order is not being followed in the operation of Power Plants in the country. It is clear that comparatively efficient Power Plants in the KEL system are not being utilized while much costlier Plants are supplying electricity to KEL despite the fact that no Power Purchase




Agreement exists in the field. This is causing loss to the country and the consumers in billions of rupees.

- Pipe line quality gas is being burnt in in-efficient Plants leaving the comparatively efficient Power Plants un-operational. This may be due to some legal or technical problems but it would be appropriate to discuss the issue in detail and evolve a mechanism by which loss to the tune of billions of rupees, which the country and its' people are suffering, could be avoided.
- NEPRA is inducting high tariff, non-base load technology Power Plants, for example Wind and Solar, against its own Policy. This will increase the burden on the country and the consumers.
- NEPRA is also increasing the life of in-efficient Plants by making **un-economic** decisions by allowing conversion of Fuel (conversion from oil to coal) of old and in-efficient Plants. Such decisions of NEPRA are extending the period of in-efficiencies in the Power Sector of Pakistan.
- Non use of oil-fired Power Plants when RFO prices have internationally gone low, tantamounts to blocking the economic growth of the country.
- While price of Oil products has come down to a very low level internationally, the Sales Tax on High Speed Diesel (HSD) in Pakistan has been increased to 27% vide SRO No. 83(I)/2015 dated 30.01.2015. This will ultimately increase the cost of electricity to be produced from HSD Power Plants. It is to be noted with concern and regret that 900 MW 'Take-or-Pay' based Power Plants, located in the heart of the load centres, are not being utilized to their capacity while consumers are making capacity payments to these Power Plants.
- The Authority has indicated adjusting the 'test energy' supplied by Nandipur and Guddu Power Plants. We request the Authority to provide us the results of "test proceedings" of these Power Plants on a monthly basis, their primary and secondary fuel details, their Commercial Operation Date etc. The Authority is requested to obtain all the documents with regard to the "testing" of these Plants so that any interested party may be able to obtain the same when required. Further, we would like to know whether in the cases of other Power Plants with

HSD as back-up fuel, the Plants were tested on back-up fuel in addition to being tested on primary fuel?

- Although no fuel cost is involved in Wind Power Plants but Anwar Kamal Law Associates request the Authority to direct CPPA to disclose the total cost for the month paid, or to be paid, to each Wind Power Plant against the energy supplied by the respective WPP, so that the people become aware of the month-wise per unit cost of electricity from each Wind Power Plant.
9. We earnestly urge the Authority to think and re-think these and other issues several times; the in-efficient Power Sector must not be protected at the cost of Pakistan.
  10. We request the Regulator to make a thorough analysis of the Power Sector and take strong action against all those entities or individuals, which or who are not discharging their duties as per the demand of their respective business. NEPRA, being the sole Regulator of the Electric Power Sector in the country, is responsible for bringing in efficiency in the Power Sector of Pakistan by taking direct action in exercise of the duties assigned and powers given to it under the NERPA Act.
  11. Though Anwar Kamal Law Associates were not able to participate in the Hearing at Islamabad on 18.02.2015 due to professional engagements in the Lahore High Court at Lahore, it is requested that these submissions be considered before a decision is rendered and notified.
  12. It is also requested that a Hearing for FCA for the month of February, 2015 be scheduled at the earliest.

Yours sincerely,

  
(Anwar Kamal Law Associates)

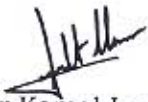
Copy forwarded for information and necessary action to:

1. The Registrar, National Electric Power Regulatory Authority (NEPRA), Attaturk Avenue (East), NEPRA Tower, Opposite Federal Flood Commission, G-5/1, Islamabad. By TCS & Email [registrar@nepra.org.pk](mailto:registrar@nepra.org.pk)
2. The Managing Director, National Transmission and Despatch Company Limited (NTDC), 414-WAPDA House, The Mall, Lahore.

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3. The Chief Executive Officer, the National Power Control Center (NPCC) Sector H-8, Opposite Beacon House School, Main Campus, Islamabad.
4. The Managing Director, Pakistan Electric Power Company (Pvt) Limited (PEPCO), 719-WAPDA House, The Mall, Lahore.
5. The Secretary to the Government of Pakistan, Ministry of Water and Power, Room No.202-203, 2<sup>nd</sup> Floor, A Block, Pak Secretariat, Islamabad. By TCS & Email: [secretary@mowp.gov.pk](mailto:secretary@mowp.gov.pk)
6. The Secretary to the Government of Pakistan, Ministry of Finance, Government of Pakistan, Q-Block, Pak Secretariat, Islamabad.
- ✓ 7. Mr. Sohail Muzaffar, Chairman, Transparency International Pakistan, 5-C, 2<sup>nd</sup> Floor, Khayaban-e-Ittehad, Phase VII, D.H.A., Karachi.
8. Mr. Adil Gilani, Chairman, Whistleblower Pakistan, 72-F/II Jami Commercial Street No.9, Phase VII, DHA, Karachi.
9. The President, Institute of Chartered Accountants of Pakistan, Chartered Accountants Avenue, Clifton, Karachi-75600.
10. The President, Institute of Cost and Management Accounts of Pakistan, ICMAP Building, Street No.18/C, ICMAP Avenue, Block 6, Gulshan-e-Iqbal, Karachi 75300. By TCS & Email: [info@icmap.com.pk](mailto:info@icmap.com.pk)
11. The Chairman, Securities and Exchange Commission of Pakistan National Insurance Corporation Building, Jinnah Avenue, Islamabad-44000.

  
(Anwar Kamal Law Associates)

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