



# National Electric Power Regulatory Authority Islamic Republic of Pakistan

NEPRA Tower, Attaturk Avenue (East), G-5/1, Islamabad.  
Tel: +92-51-9206500, Fax: +92-51-2600026  
Web: www.nepa.org.pk, E-mail: registrar@nepa.org.pk

**Registrar**

No. NEPRA/DG(CAD)/TCD-13/ 14031-37

September 06, 2024

1. Chief Executive Officer  
Islamabad Electric Supply Company (IESCO)  
Street No 40, G-7/4, Islamabad.
2. Chief Executive Officer,  
Bahria Town Private Limited (BTPL),  
Phase-II, Bahria Town, Rawalpindi.

Subject: **DECISION IN THE MATTER OF NON-ADJUSTMENT OF NET METERING UNITS OF BAHRIA TOWN PRIVATE LIMITED BY ISLAMABAD ELECTRIC SUPPLY COMPANY**  
IESCO-NHQ-25236-06-23, Misc. 66/12/2023 & Misc. 04/01/2024

Please find enclosed herewith the subject Decision/Determination of the Authority along with Decision of the Mr. Mathar Niaz Rana, Member (NEPRA) (total 13 Pages) regarding the subject matter for necessary action/compliance and submission of report within sixty (60) days.

Enclosure: As above

*Wasim Anwar Bhinder*  
(Wasim Anwar Bhinder)

**Copy to:**

1. Managing Director, National Transmission & Dispatch Company Ltd. (NTDCL), 414 WAPDA House, Shahrah-e-Qaid-e-Azam, Lahore.
2. C.E./CSD, IESCO, Street No. 40, G-7/4, Islamabad.
3. Deputy Chief Executive, BTPL, Safari Valley Office, Safari Homes, Sector-E, Phase-VIII, Bahria Town, Rawalpindi.
4. Mr. Tahir Nihad Bajwa, President/CEO, BRACE-Empowering Communities, 1<sup>st</sup> Floor, Mumtaz Plaza, Orchard Road, Sector-A, Downtown Giga, DHA-II, Islamabad.
5. Mr. Masood-ur-Rehman, Patron-in-Chief, Bahria Town Residents Welfare Association (BTRWA), House No. 163, Street No. 01, Safari Valley, Usman-D Block, Phase-VIII, Bahria Town, Rawalpindi

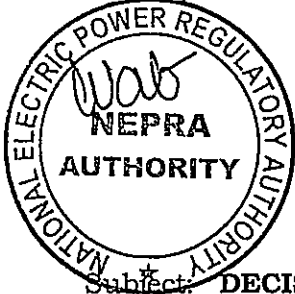


**BEFORE THE**  
**NATIONAL ELECTRIC POWER REGULATORY AUTHORITY**

**Complaints: IESCO-NHQ-25236-06-23, Misc. 66/12/2023 & Misc. 04/01/2024**

**Participants:**

- 1) Mr. Muhammad Amjad Khan, CEO IESCO
- 2) Mr. Waheed Akram, Director (Commercial), IESCO
- 3) Mr. Muhammad Saleem, Deputy Chief Executive BTPL
- 4) Mr. Azhar Mehmood, GM GSS & Billing, BTPL
- 5) Ch. Sheraz Saleem, Head Maintenance Services, BTPL
- 6) Mr. Muhammad Arif, Legal Advisor, Residents Rights Advocacy
- 7) Mr. Masood-ur-Rehman, Patron-in-chief BTRWA.
- 8) Mr. Tahir Nihad Bajwa, President BRACE & others.



**Subject: DECISION IN THE MATTER OF NON-ADJUSTMENT OF NET METERING UNITS OF BAHRIA TOWN PRIVATE LIMITED BY ISLAMABAD ELECTRIC SUPPLY COMPANY**

**DECISION**

This single decision shall dispose of the complaints filed by Engr. Muhammad Saleem, Deputy Chief Executive Officer of Bahria Town Private Limited (hereinafter referred to as the "**Complainant 1**" or "**BTPL**") against Islamabad Electric Supply Company (hereinafter referred to as the "**Respondent**" or "**IESCO**"), residents of Bahria Town and Bahria Enclave (the "**Complainant 2**") and Mr. Tahir Nihad & Others (the "**Complainant 3**") against BTPL.

**Background**

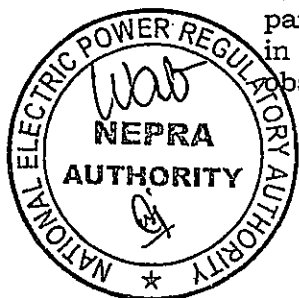
2. NEPRA received a complaint from Engr. Muhammad Saleem on behalf of BTPL, wherein it was alleged that net metering units are being injected into the IESCO system at the 132 kV BTPL grid station, however, in blatant disregard to the applicable laws, IESCO is not compensating BTPL for the aforesaid exported units. Furthermore, BTPL maintained that it is providing the net metering facility to its consumers, whereas, the exported units are recorded in the billing meter and added to BTPL's imported units from IESCO. As a result, instead of benefiting from the exported units, BTPL is incurring financial losses due to non-adjustment of these units and their addition to the imported units from IESCO. That, in order to offset its financial losses, BTPL began deducting 30% of the relief/exported units received from its consumers. In light of the foregoing facts, BTPL requested the installation of check/bidirectional meters for its connections and the netting off of the units exported to IESCO's system, as BTPL was providing the benefit of net metering units to its consumers.

3. During the initial processing of this complaint, several residents of Bahria Town and Bahria Enclave also approached the Authority with complaints against BTPL's management regarding the 30% deduction in net-metering exported units, urging the intervention of the Authority, in the interest of justice, fairness and propriety, to resolve the matter and address their grievances. Considering the peculiar circumstances of the case and to provide an interim relief to the consumers/residents of the Bahria Town, the Authority *vide* its Order, dated January 12, 2024, directed BTPL not to deduct 30% units, exported by net-metering consumers of Bahria Town, till the final decision by the Authority, in the instant matter.

4. The Complainant 3 filed a complaint against BTPL dated March 27, 2024, highlighting BTPL's non-adherence of the tariff structure sanctioned by the Authority. It was alleged that BTPL is operating an electrical distribution system in absence of a valid license and is in continued defiance of the Authority's order dated 24-02-2021, necessitating the reimbursement of overcharged tariffs. It was prayed that in absence of transparent financial disclosures and lack of independent auditing of BTPL, a question mark is raised on the legitimacy of its operations. It also prayed for an immediate cessation of the 30% solar unit deductions by BTPL and the reimbursement of all past deductions to the affected consumers. In addition to the same, Complainant 3 also requested for imposition of punitive sanctions on BTPL on its flagrant disregard of NEPRA's ruling and called for an independent audit of BTPL billing and net metering operations along with appointment of an interim administrator in accordance with the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "NEPRA Act") to oversee equitable electricity distribution. The Complainant 3 also prayed for expedited declaration of NEPRA's decision regarding the complaints heard on January 1, 2024, i.e. the complaints filed by Complainant 2.

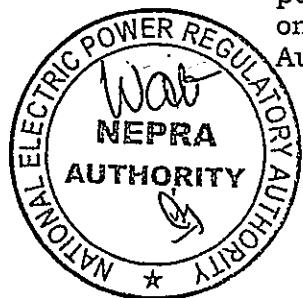
5. In order to holistically understand the issues forming the subject matter of the Complaints before us, it is imperative to touch upon the history of the matter, which has led to the filing of these complaints. Brief facts are explained hereunder:

- (i) In the year 2005, one of the residents of Bahria Town (Rawalpindi & Islamabad) filed a complaint with the Authority against the management of BTPL regarding disconnection of his electricity supply. In view of the said, a hearing was held on February 28, 2006, Subsequently, IESCO was directed to make an arrangement for provision of electricity services to that complainant, however, IESCO failed to comply with the said directions of the Authority. Upon non-compliance of the said directions of the Authority, a Show Cause Notice (SCN) was served upon IESCO on June 20, 2006. In reply to the SCN, IESCO pleaded that BTPL is getting one point supply under C-3 tariff and it is also involved in re-sale of electricity to its residents. IESCO expressed its inability to provide the electric power to that complainant being a resident of Bahria Town whereby the distribution system of IESCO is not available.
- (ii) After reviewing the submissions of IESCO, the Authority observed that IESCO has failed to provide the electric power services in the area of Bahria Town wherein BTPL itself is serving the residents of BTPL for the provision of electric power after purchasing the same in bulk from IESCO. Since the distribution of electricity is a licensed activity, therefore, the Authority decided to withdraw the SCN issued to IESCO and advised BTPL to seek distribution license from the Authority if it intends to remain involved in the business of distribution of electricity. Afterwards, in terms of Section-20 of the NEPRA Act; BTPL filed an application dated February 10, 2007 before the Authority for grant of distribution license for the areas including Phase-I, II, III, IV, V, VI, VII, Bahria Paradise, Safari Villas-I & II. The said application was processed under the NEPRA Licensing (Application and Modification Procedure) Regulations, 1999 (the "Regulation 1999") and was admitted on April 17, 2007. Comments were sought from interested parties and relevant stakeholders including IESCO. The IESCO initially supported the application for grant of distribution license to BTPL during the hearing held on May 09, 2007 and confirmed that it would surrender part of its Service Territory for which BTPL had applied for the distribution license.
- (iii) Despite its commitment in the hearing, IESCO vide its letter dated December 23, 2008 informed the Authority that its Board of Directors did not agree to surrender part of its Service Territory in favour of BTPL on the ground of 'exclusivity' provided in its Distribution License. Consequent upon stance of IESCO, the Authority observed that IESCO is not providing electric power services in the territory of Bahria

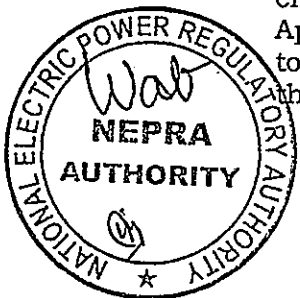


Town and BTPL is getting one point electricity supply from IESCO and thereafter distributing/re-selling the same to its residents. Further, the whole distribution system was laid down by the BTPL and the same is also being maintained and managed by BTPL. In view of said facts, it was clear that BTPL is not a licensee of the Authority and therefore, the residents of Bahria Town legally stand nowhere since they do not have legal remedy against BTPL as in the case of aforesaid complaint. Furthermore, without a distribution license, BTPL is not legally bound to follow the NEPRA Act, relevant Rules & Regulations and any other instruction of the Authority.

- (iv) On the other hand, protecting and safeguarding the interests of the consumers of electricity, who are residing in the territorial limits of Bahria Town, is one of the mandates bestowed upon the Authority and therefore, in the greater public interest, a necessity was felt to consider grant of distribution license to BTPL. Since IESCO did not provide its consent for grant of distribution license to BTPL, therefore, the Authority had decided to modify the Distribution License of IESCO in terms of Section 26 of the NEPRA Act read with regulation 10 of the Regulations 1999 in the public interest. Accordingly, in terms of section 26 of the NEPRA Act, the Authority initiated an Authority Proposed Modification (the "APM") on May 07, 2010 and after following due process of law including, inter-alia, publication in press, notices to stakeholders for their comments and public hearing in the matter; and approved the modifications in the Distribution License of IESCO on September 28, 2010. Later on, the Distribution License of IESCO was modified vide determination dated October 29, 2010 (the "Modification-I") whereby the area served by BTPL was carved out from the Service Territory of Distribution License of IESCO. Subsequent to above-said determinations, the Authority granted a Distribution License No. 20/DL/2010 on November 24, 2010 to BTPL for a period of 20 years for areas located inside (Rawalpindi & Islamabad) as given in the Distribution License.
- (v) Aggrieved with the decision of the Authority, IESCO filed a Writ Petition, bearing No. 2860/2012 (IESCO v/s NEPRA) (the "WP"), before the honorable Islamabad High Court, challenging the said decisions on the ground of exclusivity to distribute and supply electric power to end-consumers. During the course of hearing, on June 25, 2020, before the honorable Islamabad High Court, the counsel of BTPL made a statement that under the instructions of his client, BTPL is no more interested in running the distribution network, therefore, the WP filed by IESCO may be accepted. The counsel of the IESCO, on the other hand, stated that it will not be viable for IESCO to immediately acquire the distribution network of BTPL without modalities to be adopted for taking over the distribution network by IESCO. Owing to the submissions of both the parties, the Court directed NEPRA to resolve the issue of handing/taking over of distribution network of BTPL.
- (vi) Subsequently, IESCO filed an application before the Authority, on September 08, 2020 ("Application"), wherein it was submitted that during the last ten (10) years, BTPL has not invested a single penny out of its pocket for augmenting the distribution network and progressive line losses of BTPL are 70% more than IESCO's losses. In view of the alleged sub-standard nature of BTPL distribution system, IESCO maintained that around Rs. 2,132/- million will be required to upgrade the distribution network of BTPL and further contended that this cost should be borne by BTPL. IESCO further prayed that the Authority may pass orders providing for the manner and the terms & conditions on which IESCO shall take over the electric power distribution system and services in the localities mentioned in the distribution licence issued by the Authority to BTPL (No.20/DL/2010, dated 24.11.2010). It was further prayed by IESCO that, the Authority may pass an appropriate order restoring/ reinstating IESCO's distribution licence (No. 01/DL/2001, dated 2.11.2001) to the terms & conditions existing prior to the amendments made pursuant to the APM and grant any further or additional relief. During a hearing held on September 09, 2020, the honorable Islamabad High Court also directed the Authority to decide the application of the IESCO within three (03) months.



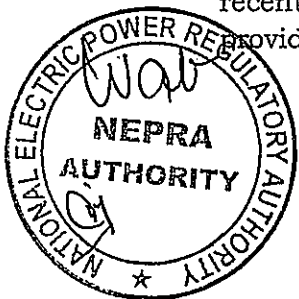
- (vii) In compliance with the above Order, a hearing was held, on October 15, 2020, wherein BTPL explicitly stated and maintained that, it is no more interested to continue distribution of electricity business in Bahria Town and is ready to surrender its distribution license. It was also communicated to the Authority *vide* letter, dated October 16, 2020, that BTPL is ready to surrender its distribution license and hand over its entire electrical network, i.e. 220/132 KV Grid Stations and distribution systems, to IESCO on "as is and where is" basis.
- (viii) In view of the aforementioned submissions made by BTPL, during the hearing and in writing, the Authority, on October 20, 2020, cancelled the Distribution License of BTPL w.e.f. October 16, 2020. However, the Authority directed BTPL to continue to manage the operation and maintenance of its entire electrical distribution network/system in Islamabad and Rawalpindi until the IESCO takes over the entire distribution network/system of BTPL.
- (ix) The Authority observed that as per the submissions made by BTPL and IESCO during the proceedings of WP, the BTPL's distribution network is to be taken over by IESCO. On the other hand, IESCO expressed reservations on the issue and submitted that significant investment is required for the up-gradation, rehabilitation and renovation of the distribution system.
- (x) That, while keeping in view all relevant and essential factors, including (i) the cancellation of distribution license of BTPL; (ii) statutory responsibility of the Authority to safeguard the consumer interest; (iii) pleadings of IESCO in the WP; and (iv) the prayer of IESCO, in its letter dated 8<sup>th</sup> September 2020, to restore/reinstate IESCO's distribution licence prior to APM, the Authority *vide* decision, dated December 15, 2020 (the "**Decision**"), extended the service territory of IESCO to include areas served by BTPL, namely Phase-I, II, III, IV, V, VI, VII, Bahria Paradise and Safari Villas-I & II and consequently, Clause (d) of Article 3.2(i) of Distribution License of IESCO was omitted. At this juncture, it is imperative to clarify that area of Bahria Enclave, Islamabad, was never excluded from service territory of IESCO, hence, the same has always remained within the service territory of IESCO.
- (xi) It is pertinent to mention that the aforementioned Decision was not challenged by the IESCO, before any forum, hence, the same attained finality. However, in complete disregard of the Decision, IESCO refused to take over the distribution network of BTPL, for the provision of electric power services. In view thereof, the Authority *vide* letter dated January 29, 2021 directed IESCO to take over the distribution network of BTPL or enter into O&M agreement with BTPL, in accordance with the NEPRA (Supply of Electric Power) Regulations, 2015. These directions were issued by the Authority to ensure the smooth transition of distribution services from BTPL to IESCO and in order to avoid any inconvenience to the residents of BTPL. However, IESCO disregarded these directions and willingly failed to take any action in this regard.
- (xii) Despite IESCO's non-adherence, the Authority, in compliance with the directions of the honorable Islamabad High Court, *vide* its letter, dated December 24, 2020, directed IESCO and BTPL to jointly inspect/check/verify the condition of the distribution network of BTPL and submit a joint report within thirty (30) days. Subsequently, IESCO *vide* its letter, dated February 23, 2021, submitted a unilateral report and informed that distribution network of BTPL is not compatible with its standards. It further submitted that in order to up-grade and take over the same, a substantial amount, to the tune of Rs. 5580/- million, would be required from BTPL. It is pertinent to mention that earlier IESCO in its Application, stated that around Rs. 2,132/- million were required to take over the distribution network of BTPL. Considering the unilateral nature of the report, submitted by IESCO, and the enormous discrepancy between the figures contained in the report and the Application, the Authority *vide* its letter, dated March 14, 2022, directed the parties to re-evaluate the distribution network of BTPL and submit a joint report, within three (03) weeks.



- (xiii) Subsequently, during the hearing of the WP, on March 28, 2022, the honorable Islamabad High Court inquired about the progress of the matter and it was informed that BTPL and IESCO, were directed to submit a joint report for consideration of the Authority. In this regard, Authority's letter, dated March 14, 2022, was placed on record for consideration of the Court. The Court *vide* order dated March 28, 2022, directed the Authority to decide the matter within a period of one month. In response to the Authority's letter, dated March 14, 2022, IESCO *vide* its letter, dated April 23, 2022, submitted that an amount of Rs. 7276/- million is required to upgrade the BTPL electrical network installed in the Bahria Town Phase-I to VIII (excluding the cost required to upgrade the 132 kV network) to make the system compatible with DISCO's / IESCO standards and specifications along with annual OPEX expenditures of Rs. 130/- million.
- (xiv) As apparent from the facts narrated herein-above, the relevant Parties had failed to resolve the issues, in an amicable manner. This aggravated the situation, which in turn continued to adversely affect the residents of Bahria Town. Needless to say, the Authority in the interest of justice, fairness and transparency, provided multiple opportunities to IESCO and BTPL to jointly assess the condition of the distribution system and place their findings before the Authority, in the form of "**joint report**", enabling the Authority to pass an appropriate order, in accordance with the applicable law, rules and regulations, to ensure that the rights of consumers/residents of BTPL are protected. Owing to IESCO's non-compliance, which could be best described as contemptuous and in blatant disregard to the directions issued by the Authority, IESCO continued to supply electricity to BTPL on single point, whereas, BTPL continued to distribute electricity to the residents of Bahria Town under the directions of the Authority, which were meant as a stop gap arrangement till the time IESCO takes over the network of BTPL.
- (xv) By this time the Authority issued a new framework to bring to effect 2018 amendments in the NEPRA Act. The NEPRA notified the NEPRA Licensing (Electric Power Distribution) Regulations, 2022 (the "**Distribution Regulations**") and the NEPRA Licensing (Electric Power Supplier) Regulations, 2022 (the "**Supply Regulations**"); whereby "supplier" was categorized into "Supplier of Last Resort" (the "**SoLR**") and "Competitive Supplier" (the "**CS**"). Considering the change in regime and non-compliance of the Authority directions by IESCO, NEPRA *vide* its letter, dated September 01, 2022, issued following directions to BTPL:
- a. Apply for Distribution (Network) License and subsequently Distribution Tariff thereof;
  - b. Apply for Supply License for sale of power in its service territory as Electric Power Supplier and subsequently supply tariff thereof;
  - c. In case, BTPL is not ready to supply electricity in the areas of its Distribution License, then the host Distribution Licensee, i.e. IESCO shall act as " SoLR" and shall pay Use of System Charges to BTPL as approved by the Authority.
- (xvi) In response, BTPL *vide* its letter, dated September 07, 2022, submitted as under:
- a. BTPL is willing to apply for Distribution License and subsequently Distribution Tariff for Distribution of power in its service area.
  - b. BTPL is willing to apply for Supply License for sale of power in its Service Area, after Power acquisition arrangements between BTPL and Generation Company/Companies are finalized.
- At present, since Power acquisition arrangements between BTPL and generation companies have not been finalized, NEPRA is therefore, requested to kindly direct IESCO to supply power to BTPL as Supplier of Last Resort.



- d. In this regard, BTPL is ready to enter into an Agreement with IESCO for getting Electric Supply at BTPL's Rawalpindi/Islamabad Grid Stations for which BTPL will apply Distribution License as per terms and conditions approved by the Authority.
- (xvii) Meanwhile, the NEPRA *vide* its letter, dated September 23, 2022, directed IESCO to act as SoLR to provide electric power to the residents of Bahria Town (Rawalpindi & Islamabad) on non-discriminatory basis as per provisions of the NEPRA Act and relevant regulations. It is pertinent to mention that post 2018, the "distribution" and "supply" functions were bifurcated and "exclusivity" was omitted to promote competition in the power sector. In the meanwhile the Authority granted a non-exclusive distribution license to IESCO on April 06, 2023.
- (xviii) Considering the continued non-compliance of directions of the Authority by IESCO and seemingly its disinterest in acquiring BTPL's distribution network, which was clearly demonstrated by its continued modification to the amounts required to take over said network and changes made to the legal framework *vide* the 2018 amendments, the Authority decided to conclusively decide the issue by giving the opportunity of hearing to all concerned. The Authority announced its determination on April 18, 2023 ("**Determination**"). The Authority *vide* aforesaid Determination, *inter alia*, passed the following orders:
- "...BTPL will be responsible for all the network related functions of Bahria Town Phase-I to VIII (Rawalpindi & Islamabad) and Bahria Enclave, Islamabad ..."*
- "... IESCO shall act as SoLR in accordance with NEPRA Act, the Supply Regulations and other applicable documents for supply of electric power to the residents/consumers located in Bahria Town Phase-I to VIII (Rawalpindi & Islamabad) and Bahria Enclave, Islamabad ..."*
- (xix) The above directions were also not complied with by IESCO. However, BTPL in compliance with the Determination applied for grant of distribution license which is pending consideration before the Authority. Furthermore, IESCO challenged the Determination before the honorable Islamabad High Court by filing CMA 1556 of 2023 in WP. No. 2860/2012 and the matter is pending adjudication. However, the operation of the said determination has not been suspended by the honorable Islamabad High Court.
6. The upshot of the above narrative is that as of today, BTPL procures electricity from IESCO through a single-point supply and distributes it through an adhoc arrangement to the residents of Bahria Town while handling the network, billing and collection without any distribution license and supply license. The IESCO by virtue of its supply license, bearing No. SOLR/01/2023, is the SoLR for the territory of Islamabad/Rawalpindi/Chakwal/Jhelum/Attock etc. and is obligated under section 23F of the NEPRA Act and provisions of Eligibility Criteria (Electric Power Supplier Licences) Rules, 2023, to supply electric power in its service territory, including the area of Bahria Town, however, contrary to the said, IESCO is not fulfilling its license obligations to supply electricity to residents of Bahria Town. In addition to the above, another issue which has recently cropped up and is subject matter of these Complaints is IESCO's reluctance to provide the benefit of net-metering units to BTPL.



## Analysis

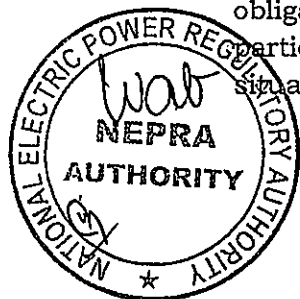
7. At the outset, the Authority has noted with serious concern that the main reason of the current situation is the failure of IESCO to adhere to the directives issued by the Authority, in the context of supplying electricity directly to the residents of Bahria Town. This non-compliance has led to disruptions and challenges in the provision of electricity within the Bahria Town area. In addition, residents have faced difficulties such as unfair adjustments in net-metering units and overcharging of tariffs, all due to the IESCO's lack of adherence to regulatory directives. The severity of the issue can be gauged from the fact that a unique situation has arisen where thousands of consumers are being supplied and serviced by an entity which does not have a license, and is operating under an ad-hoc arrangement, whereas, the entity, i.e. IESCO, which has the obligation and license to serve the consumers is reluctant to supply electricity. This unique issue has exposed the Authority to another challenging situation, where thousands of consumers of Bahria Town, *prima facie* are unable to file a consumer complaint/grievance against the entity which is serving them, i.e. BTPL, since it is not a licensee. Therefore, before delving further, it is important to touch upon the aspect of jurisdiction of the Authority to entertain the instant Complaints filed by Bahria Town residents, against BTPL.

## Jurisdiction

8. As per NEPRA (Complaint Handling and Dispute Resolution Procedure) Rules, 2015, the Authority is empowered to process complaints against its licensees. The term "complaint" has been defined in the aforesaid Rules as follows:

*"Complaint" means a written complaint filed by a complainant with the Authority against a licensee for contravention of any provision of the Act or any order, rules, regulations, license or instruction made or issued thereunder and includes dispute amongst licensees and between consumers and licensees;*

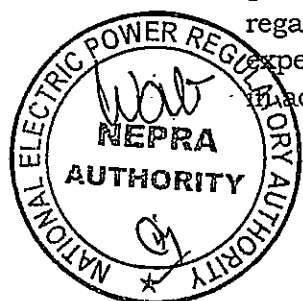
9. It is a matter of fact and record that, BTPL is not a licensee, at this point in time, hence, it can be safely concluded that, the instant Complaints filed by residents of Bahria Town *stricto sensu* are not maintainable. However, it is also a matter of fact that electricity is being supplied to BTPL through single point supply by IESCO and BTPL on the ground is involved in distribution and supply of electricity to residents of Bahria Town under direction of the Authority (which was meant as an ad-hoc arrangement). This situation is highly concerning, since it has arisen due to flagrant disregard of the several directions issued by the Authority, from time to time, to IESCO. Be that as it may, in the given circumstances, the Authority being the exclusive regulator of the electric power services cannot fold its arms and leave the residents of Bahria Town, i.e. "consumers", at the mercy of BTPL and highhandedness of IESCO. The Authority is mindful of the fact that, as per the judgment of the honorable Supreme Court of Pakistan, reported as **2012 SCMR 773**, provision of electricity is declared as right to life protected under Articles 9 and 14 of the Constitution of Islamic Republic of Pakistan, 1973 (the "**Constitution**"). Therefore, the Authority is compelled to address this matter, in order to safeguard, protect and preserve the fundamental rights of the consumers/residents of Bahria Town, who, it is reiterated, falls under the definition of consumers, as defined in section 2 (iv) of the NEPRA Act. Furthermore, section 7 of the NEPRA Act also, in unequivocal terms, obligates the Authority to protect the interests of the consumers. In light of what has been provided herein-above, the Authority is cognizant of the fact that, its primary obligation remains to ensure fair and just treatment for all stakeholders involved, particularly the consumers, who are undoubtedly being adversely affected by the current situation.





## Proceedings

10. In order to ensure a fair resolution of the matter, the Authority convened a hearing on January 01, 2024, in which all stakeholders, including BTPL management, Bahria Town residents, and IESCO officials participated. During the hearing, the CEO of IESCO stated that BTPL is a single-point consumer of IESCO under the C-3 Tariff, with a load exceeding 1 MW, whereas, NEPRA (Alternative & Renewable Energy) Distributed Generation and Net Metering Regulations, 2015 (**2015 Regulations**) do not permit to provide net metering facility under C-3 tariff category and load above 1 MW. On the other hand, BTPL has reiterated its earlier position, primarily asserting that BTPL is exporting net-metering units to the IESCO system, however, IESCO is not compensating them for these exported units, resulting in a financial loss and a lack of recognition for the contribution of the net-metering units to the overall system.
11. In order to verify the claim of BTPL, IESCO was directed to install check meters on cost deposit basis. Subsequently, IESCO installed check meters/bidirectional meters against account # 27-14614-6000301, 27-14614-6000300 and 27-14615-6064500 on January 4, 2024, January 18, 2024 and January 19, 2024, respectively.
12. Thereafter, to ensure a well-informed decision is taken, the Authority directed a site inspection to be carried out by the representatives of NEPRA, which duly took place on February 19, 2024, in presence of all the relevant parties, i.e. BTPL, NTDCL & IESCO (including representatives of M&T and P&I of IESCO) to check the reading of all check meters installed at different locations of BTPL. During the site inspection, it was revealed that the solar energy units are being exported into the IESCO system from BTPL. Additionally, it was found that the energy meters installed at account numbers 27-14614-6000301 and 27-14615-6064500 were adding exported units of BTPL. As a result, BTPL was being billed by IESCO for duplicated units, both for its exported units and the units received from IESCO. The site inspection further revealed that the units were also being exported into NTDCL system, at 220/132 kV BTPL grid station, where connection bearing Account No.27-146156064500 U is installed. It has been observed that NTDC has been providing benefit of exported units of BTPL to IESCO and due adjustment has been made as per the record provided by NTDCL, however, no benefit of the exported units is being provided to BTPL by IESCO.
13. During the pendency of the above proceedings before the Authority, Complainant 3 filed another Writ Petition No. 1828 of 2024 (Tahir Nihad & Others v NEPRA & Others) before the honorable Islamabad High Court, Islamabad. In the aforesaid petition, the petitioners challenged the charging of high rates for the consumption of electricity by BTPL and alleged that said rates are significantly greater than those charged by IESCO. The petitioners submitted that the disparity in the electricity bills issued by IESCO and BTPL is so much; that the amount deposited against the electricity bills has become a source of revenue for BTPL; and that the agitation of fundamental rights by the petitioners is being met with retaliatory measures by the BTPL in as much as the petitioners' electricity meters are being disconnected. The Complainant 3; in the petition also raised the issue of deduction of net metering units by BTPL. The honorable Court observed that the Regulator/NEPRA is to take measures in order to redress the grievances of the petitioners and decide the complaint filed by Complainant 3. In this regard the Court vide Order dated June 12, 2024 held that the Regulator /NEPRA is expected to afford an opportunity of a hearing to the petitioners and take such measures in accordance with the law as are necessary.



14. In compliance with the Court's directions, a hearing was conducted at NEPRA Head Office, Islamabad on July 2, 2024. During the hearing, the Authority heard the arguments and concerns of all involved parties, allowing for a detailed and exhaustive discussion. Additionally, the parties were instructed to submit their written comments and any additional relevant documentation to NEPRA for further consideration by the Authority.
15. Thereafter, on July 9, 2024, IESCO submitted a request stating that the matter at hand was of a very sensitive nature and required discussion and deliberation with other Directorates, including Planning, Operation, and Finance. As a result, IESCO requested an extension to file written comments until July 12, 2024. Subsequently, IESCO requested another extension, this time until July 24, 2024. Finally, IESCO submitted its comments on July 25, 2024.
16. The main contentions of IESCO are centered around technical and legal challenges in taking over the distribution network of BTPL. IESCO submitted that technical reports indicate severe deficiencies in BTPL's system, requiring an estimated Rs. 7,276 million for necessary upgrades. This substantial financial outlay underscores the seriousness of the issues within BTPL's infrastructure.
17. Moreover, IESCO contested NEPRA's directions to enter an Operations and Maintenance agreement with BTPL. The objections are based on the financial risks and legal uncertainties associated with consumer contracts in the disputed territory. IESCO is concerned that adhering to NEPRA's directives without addressing these issues could lead to significant financial and legal complications.
18. Finally, IESCO requested a structured and legally compliant process for taking over distribution network of BTPL. The emphasis is on consumer protection and avoiding undue financial burden on IESCO. In this regard, IESCO requested that the Authority issue detailed orders outlining the manner, terms, and conditions under which IESCO will take over electric power distribution system of BTPL and services. This should ensure the protection of electric power consumers in the affected localities and IESCO's broader service territory. Additionally, it is requested that IESCO's original distribution license should be restored to its pre-amendment status. Moreover, until the takeover is complete, NEPRA should require BTPL to remain responsible for all aspects of the distribution system and services, making timely payments to IESCO for all electricity supplied and billed. Alternatively, NEPRA should allow a different tariff for BTPL in the interim and pass any further necessary or appropriate orders. BTPL in its comments inter-alia submitted that BTPL surrendered its Distribution License in October, 2020 after suffering heavy monthly financial loss and requested NEPRA to direct IESCO to take over its Network and individual consumer billing. In October 2020, NEPRA cancelled the Distribution License of BTPL and directed IESCO to take over BTPL network & enter into O&M with BTPL. However, IESCO did not take over consumers billing in BTPL Service Area. BTPL requested as under:

IESCO may be directed to take over the individual Consumers Billing with immediate effect.

BTPL Distribution License may be restored and appropriate relief in BTPL's purchase Tariff may be provided by bringing the same at par with other Distribution Companies Power purchase rate in the Country.

Until restoration of BTPL's License and approval of Purchase Tariff, an interim relief of Rs.12/unit may be approved, thereby enabling BTPL to charge its consumers with the same rates as applicable to IESCO consumers.



## Decision

19. The case has been examined in detail in light of the comments, record, arguments advanced by the Parties during the hearings and the applicable law.
20. It is a matter of fact that BTPL is acting as a *defacto* supplier and distributor of electricity in Bahria Town (since it does not have *dejure* license), whereas, the residents of Bahria Town are also receiving the benefit of net-metering units from BTPL. The Authority, while cancellation of distribution licence of BTPL, directed that BTPL continue to manage the operation and maintenance of its entire electrical distribution network/system in Islamabad and Rawalpindi until the IESCO takes over the entire distribution network/system of BTPL. It is important to emphasize that IESCO did not takeover the distribution system. Consequently, BTPL continues to function as the *defacto* supplier of electricity for Bahria Town.
21. It is also a matter of record now that solar energy units are being exported into IESCO system from BTPL and that, NTDCL has been providing benefit of exported units of BTPL to IESCO and due adjustment has been made as per the record provided by NTDCL. However, it has been observed and is apparent from the record, made available to the Authority, that no benefit of the exported units is being provided to BTPL by IESCO. Consequently, BTPL has begun deducting 30% of the relief/exported units received from its consumers, i.e. the residents of Bahria Town.
22. For ease of reference, the position adopted by IESCO is being reiterated here, i.e. as per 2015 Regulations, IESCO is not permitted to net off the exported units as it categorizes BTPL as a consumer and in view of the definition of "Distributed Generation Facility", provided in the 2015 Regulations, which refers to a facility established by a Distributed Generator utilizing solar or wind energy resources for electricity generation of up to 1 MW, BTPL cannot be deemed to be a Distributed Generator.
23. With regards to the contents advanced by IESCO, the Authority is of a view that this stance is incorrect. BTPL is not a consumer of IESCO rather BTPL is at present a *defacto* supplier which is purchasing electricity from IESCO for resale (prior to cancellation of license of BTPL this was a *dejure* relationship). Like other electricity suppliers, BTPL is providing net-metering facility to its consumers. Moreover, it needs to be considered that BTPL, prior to October 16, 2020, was an entity engaged in the business of electricity distribution. Furthermore, consumers of BTPL were also covered under the 2015 Regulations and the consumers were availing net metering facilities. Therefore, the consumers have a **legitimate expectation** to be treated at par with the consumers of other distribution companies /SoLRs. In this regard, reliance is placed on the honorable Supreme Court's judgment, reported as **2023 SCMR 766**, wherein it was observed that:

"5. ...There is no denial to this fact that doctrine of legitimate expectation connotes that a person may have a reasonable expectation of being treated in a certain way by administrative authorities owing to some uniform practice or an explicit promise made by the concerned authority. The legitimate expectation ascends in consequence of a promise, assurance, practice or policy made, adopted or announced by or on behalf of government of a public authority. When such a legitimate expectation is obliterated, it affords locus standi to challenge the administrative action before the court of law."



The aforementioned principle was further endorsed by the honorable Supreme Court in its judgment, cited as **2023 SCMR 1381**.

24. In furtherance to the forgoing assertion, it is also observed that IESCO's willful actions and omissions are self-serving, as the same stands to benefit from its willful disobedience of the Authority's directions and Directive(s). This assertion finds support from the fact that, NTDCL has been providing benefit of exported units of BTPL to IESCO and due adjustment has been made, as per the record provided, by NTDCL. However, no benefit of the exported units is being provided to BTPL by IESCO on account of mis-reading of law. This, in every sense of the word, would constitute as unjust enrichment, which has been defined by the honorable Lahore High Court, in case cited as **2014 PTD 1939**, as: "*... unjust enrichment occurs when a person retains money or benefits which in justice, equity and good conscience, belong to someone else. The doctrine of unjust enrichment, therefore, is that no person can be allowed to enrich inequitably at the expense of another. A right of recovery under the doctrine of "unjust enrichment" arises where retention of a benefit is considered contrary to justice or against equity*". The aforementioned judgment has been endorsed and relied upon by the honorable Supreme Court, in case cited as **2021 SCMR 1728**.
25. Without prejudice to the forgoing, it is noted that, although BTPL at present is not a licensee under the NEPRA Act, but its application for grant of distribution license is currently under consideration by the Authority, under the enabling provisions of the amended NEPRA Act, 2018. Since IESCO is the *de jure* SoLR for the residents of Bahria Town, it is obligated to serve the residents of Bahria Town and also provide net metering services. The Authority *vide* its Determination has directed BTPL to act as *de facto* distribution licensee, which BTPL is adhering to. Whereas, on the contrary, IESCO has failed to serve the residents of Bahria Town, as directed *vide* the said Determination, hence, it continues to defy the Authority by failing to comply with the terms and conditions forming part of its SoLR License. In view of the foregoing, it is observed that, BTPL appears to have been left with no option but to distribute and supply electricity, since its refusal to provide electric power services to its consumers or failure to comply with the Authority determination, will deprive consumers/residents of Bahria Town of their fundamental right as guaranteed by the Constitution.
26. Furthermore, although IESCO has filed a CMA challenging the Determination before the honorable Islamabad High Court but in absence of any court order regarding suspension of operation of the Determination, the residents cannot be made to suffer on account of pending litigation. In light of what has been referred to and discussed herein-above, and in consideration of the obligations of the Authority, as envisaged under the NEPRA Act, i.e. parent statute, the Authority is of the considered view that the Determination should be complied with in letter and spirit by IESCO.
27. Regarding the net metering issue, the onsite survey and perusal of record, leaves no doubt that net-metering units are generated by residents of Bahria Town (since BTPL has no solar generation facility of its own) and are exported to IESCO system from BTPL. As per information collected from one connection, units are received by the NTDCL from IESCO against reference No. 27-14615-6064500. As per records, 1.454 million units have been adjusted / credited to IESCO by NTDCL for the period from January 2023 to December 2023, however, the said benefit of exported units is not passed to BTPL by IESCO till date. The exported units of BTPL injected in IESCO system are transferred in the IESCO network and as such are being supplied to other consumers of IESCO.



Therefore, the Authority is of the view that benefit of this export should be passed on to the residents of the Bahria Town through BTPL. It is also of serious concern that IESCO deliberately concealed the units been credited by the NTDCL in the IESCO's network which shows dishonesty and mistrust on part of IESCO, a public sector entity. The Authority while deciding these complaints has to evaluate previous conduct of the parties as well and IESCO is a persistent violator of NEPRA directions. In this context, the IESCO also challenged its new distribution license before the honorable Islamabad High Court by filing a WP. No. 1677/2023, wherein, it has impugned the non-exclusive distribution license and made Bahria Town issue as a case study.

28. The Authority is committed to maintaining the continuity and distribution of electric power services in Bahria Town, as they were, prior to the cancellation of BTPL's distribution license. This endeavor is aimed at ensuring that "consumers" do not experience any disruptions or adverse effects in their electricity supply.

29. In consideration of the preceding facts and circumstances, the Authority hereby holds and directs as follows:

(i) That IESCO's blatant failure to comply with the directions of the Authority has resulted in a highly concerning situation regarding power distribution and supply activities in Bahria Town. The Authority reserves the right to initiate appropriate action in accordance with law against IESCO including but not limited to section 28 of the NEPRA Act.

(ii) That since application of BTPL for grant of Distribution licence is pending adjudication before NEPRA and till final decision of the matter, IESCO shall ensure that the electricity units exported from BTPL's net-metering consumers to IESCO, whether directly at 132 kV or through the NTDCL system at 220 kV, shall be immediately adjusted against the electricity supplied by IESCO to BTPL. This adjustment will also be applicable on past transactions to be retrieved through data downloading of the impugned meters installed at 220 kV & 132 kV system of BTPL. The data downloading shall be carried out by IESCO in presence of representative(s) of BTPL.

(iii) That BTPL shall ensure that the benefit is passed on to its net-metering consumers in accordance with prudent utility practices, including benefit for any previous unjust deductions.

30. The parties are directed to submit compliance reports within sixty (60) days for consideration of the Authority.

(Rafique Ahmed Shaikh)  
Member

(Engr. Maqsood Anwar Khan)  
Member

Mathar Niaz Rana (nsc)  
Member

DID NOT ATTEND

(Amina Ahmed)  
Member

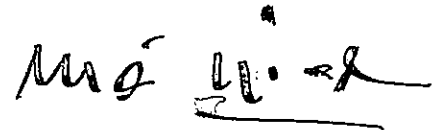
(Waseem Mukhtar)  
Chairman



My decision is attached.  
Mathar Niaz Rana

**DECISION OF MEMBER (TARIFF)**  
**IN THE MATTER OF NON-ADJUSTMENT OF NET METERING**  
**UNITS OF BAHRIA TOWN LIMITED BY IESCO**

1. Pursuant to the NEPRA (Alternative & Renewable Energy) Distributed Generation and Net Metering Regulations-2015, the purchase and adjustment of net metering units are explicitly authorized between a self-consumer of electricity and a Distribution Company (DISCO). However, these regulations do not provide for net metering under the C-3 tariff category for loads exceeding 1 MW.
2. While Bahria Town Private Ltd (BTPL) draws electricity from IESCO at a single point, it does not consume this electricity itself, nor does it generate the distributed electricity. I concur with IESCO's submission that BTPL is classified as a single power consumer under the C-3 Tariff, with a load exceeding 1 MW. Therefore, in my opinion, any net metering arrangement between BTPL and IESCO as decided by my learned colleagues; would be non-compliant with the existing regulations.
3. I maintain the request that the Authority may first consider developing a framework or amending the regulations, following the necessary legal procedures and stakeholder consultations, including with DISCOs to address this issue. This would address issues relevant to all housing societies, rather than making exceptions for any particular entity without supporting regulatory and legal provisions. In the interim, BTPL may devise a scheme to compensate its residents for any excess power generated by them.
4. Consequently, given that the above decision is likely to impact the consumer-end tariff of IESCO, I suggest that a public hearing be conducted after framing issues in the light of IESCO, BTPL and other parties' assertions to complete the due process before deciding the matter.



Mathar Niaz Rana (nsc)  
Member (Tariff)

