**F. No. PPRA/AP-47/2026**
Government of Pakistan
**Public Procurement Regulatory Authority**
(Appeal & Review Petition Secretariat))
1st Floor, FBC Building, G-5/2, Islamabad
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# ORDER

Pakistan WAPDA Foundation

***...the "Appellant"***

*Vs.*

FESCO & Others

***...the "Respondents"***

| Date of Hearing | Syed Hassan Ali Raza (ASC), Mr. Altaf Qadir |
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| | ***(On behalf of Appellant)*** |
| **19.08.2026** | Mr. Taimoor Aslam Khan (ASC), Mr. Farhan Ali Khan |
| | ***(On behalf of Respondent (FESCO))*** |
| | Mr. Muhammad Hanzala (Advocate) |
| | ***(On behalf of Respondent (M/s Hajveri))*** |

**APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004** (AGAINST LOT-II)

1. The Authority received the titled Appeal, filed under Rule 48(7) of the Public Procurement Rules, 2004. The Authority on receipt of the Appeal issued notices to the parties wherein it was directed to appear in person or through their nominated representatives or Counsel before the Authority on 19.08.2026 before the Appellate Committee in the Committee Room of this Authority.

2. On the said date of hearing (19.08.2026), the above-mentioned learned counsels and representatives of the parties appeared before the Committee and presented their arguments at length. The Respondents provided written arguments to the Committee.

3. The representative of the Appellant submitted that the Appellant is Pakistan WAPDA Foundation which is a Non-Profit Organization (NPO). The Appellant specializes in comprehensive transformer repair services for the past 40 Years. The objectives of this organization are to generate funds through different business activities, mainly from Reclamation of Power and Distribution Transformers and supply of POL. Through these business activities PWF ensures release of welfare grants to families of WAPDA, DISCOs, GENCOs, and NTDC deceased / retired employees. After unbundling of WAPDA, Pakistan WAPDA Foundation continued its services and welfare activities to DISCO, NTDC, GENCO etc. Through these business activities Pakistan WAPDA Foundation, the Appellant ensures release of funds to the widows of deceased employees of WAPDA / DISCOs / NTDC etc. for welfare and education of their children, marriage of daughters as well as medical aid in special cases.

4. Further submitted that the Respondent No. 1 advertised tender No.3052/MM/ FESCO/TRW/2025-26 through Advertisement dated 07.02.2026 regarding reclamation of 100-KVA damaged distribution transformers. This was a single stage - one envelope procurement. The tender comprised three lots namely Lot-i, Lot-ii and Lot-iii.

5. Further submitted that the Appellant submitted the bid via E-PADS on 09.03.2026 and the bid was opened on 10.03.2026. Evaluation Report of committee was issued by FESCO on 14.05.2026 in which, against Lot-i, Lot-ii and Lot-iii against Tender No. 3052/MM/FESCO/TRW/2025-26, the Appellant was declared non-responsive for the following reasons:

> *"Non-Responsive bid because the bidder login at E-PADS with name Transformer Repair but submitted the bid on E-PADS in the name of PWF along-with same CDR".*

6. Further submitted that in Lot-i, the Appellant was the lowest responsive bidder (Rs. 89.625 million) but due to the aforesaid technical and illegal knockout, the M/s Hajveri Power TRW was declared to be the responsive bidder (Rs.94.893 million). In Lot-ii, the Appellant was the lowest responsive bidder (Rs. 92.775 million) but due to the aforesaid technical and illegal knockout, the Respondent No. 3 was declared to be the responsive bidder (Rs. 118.750 million). In Lot-iii, the Appellant was the lowest responsive bidder (Rs. 84.725 million) but due to the aforesaid technical and illegal knockout, the M/s. Powerlink Electricla Co. was declared to be the responsive bidder (Rs. 94.7 million). Aggrieved by the Evaluation Report dated 14.05.2026, the Appellant filed the Complaint/Grievance dated 18.05.2026 under Rule 48(3) of the Public Procurement Rules, 2004 ("PPRA Rules 2004") with the Grievance Redressal Committee. In response to the Complaint/Grievance dated 18.05.2026, an undated Noting ("Impugned Order") has been uploaded on the E-PADS holding:

> *"In accordance with the provisions of the Public Procurement Regulatory Authority (PPRA) Rules, 2004, the Grievance Redressal Committee concludes that the grievance filed by M/s Pakistan WAPDA Foundation, Lahore (e-PADS Portal Name: Transformer Repair) is devoid of merit. Accordingly, the Committee upholds the decision of the Tender Opening Committee/Evaluation Committee declaring the firm non-responsive and recommends that the grievance be rejected and consigned to record".*

7. Further submitted that for the record that no formal, speaking, written Order has been conveyed to Appellant till date and therefore, being conscious of the statutory limitation period prescribed in Regulation 48(7) of the PPRA Rules, 2004, the Appellant is compelled to file instant Appeal against the Impugned Order. The Impugned Order is illegal and liable to be set aside on the following grounds:

**<u>Relevant provisions of law</u>**

a. Rule 7(a), Public Procurement Rules, 2004

b. Rules 2, 4, 10, 11, 20, 21, 31, and 32 Public Procurement Rules, 2004

c. Rule 48 and Rule 48(7), Public Procurement Rules, 2004 (grievance redressal and communication of decision)

d. Instructions to Bidders (IB.29) (clarification mechanism)

e. Regulation 5(v), E-Pak Procurement Regulations, 2023 (bidder registration and verification on E-PADS)

f. Section 24A, General Clauses Act, 1897 (reasoned, fair, and lawful exercise of discretion)

g. Article 4, Article 10A, Article 18 and Article 25, Constitution of Pakistan, 1973.

8. Further submitted that, in opposition to the objection that the appeal was barred by limitation, reliance is placed upon the judgments reported as 2019 SCMR 524, particularly paragraph 2 thereof, and PLD 2008 SC 591.

9. Further submitted that the Impugned Order is liable to be set aside because the ground taken by Respondent No. 1 for declaring the Appellant non-responsive, namely that the Appellant logged into E-PADS under the name "Transformer Repair" but submitted the bid in the name of Pakistan WAPDA Foundation, is wholly alien to and unsupported by Rule 7(a) of the PPRA Rules, 2004, which does not prescribe any such disqualification or condition.

10. Further submitted that the Impugned Order is liable to be set aside because neither the Instructions to Bidders ("ITBs") nor the tender documents contained any stipulation, condition, or mandatory requirement that the E-PADS login name and the bidding entity name must be identically reflected, and therefore the disqualification of the Appellant on such basis amounts to introduction of a new condition post-bid, which is impermissible in law. The Impugned Order is liable to be set aside because the Procuring Agency failed to seek any clarification from the Appellant under IB.29 of the Instructions to Bidders, either in writing or otherwise, thereby violating the principles of fair

competition, transparency, and procedural fairness. The Impugned Order is liable to be set aside because once the bidder's profile, credentials, and supporting documents stood duly verified, authenticated, and registered by the Public Procurement Regulatory Authority under Regulation 5(v) of the E-Pak Procurement Regulations, 2023, the Procuring Agency had no lawful jurisdiction or discretion to re-examine, question, or invalidate the identity or particulars of the Appellant as already approved by the competent regulatory authority. This renders the Impugned Order coram non judice, void and of no legal effect. It is also important to underscore that the Appellant has been awarded numerous contracts on the basis of the same E-PAD credentials, which are currently under performance. The Impugned Order is liable to be set aside because the specific reason assigned by the Procuring Agency for disqualifying the Appellant does not fall within the legal scope or definition of a "non-responsive bid" under the applicable procurement framework, as the alleged discrepancy neither affected the substance of the bid nor prejudiced the procurement process in any manner. The Impugned Order is liable to be set aside because no formal, speaking, and reasoned order was ever communicated to the Appellant in terms of Rule 48 of the Public Procurement Rules, 2004, and the mere uploading of an undated noting on E-PADS does not satisfy the mandatory statutory requirement of communication of a lawful adjudicatory order, thereby vitiating the entire grievance redressal process. The Impugned Order is liable to be set aside because the same is in clear violation of Section 24A of the General Clauses Act, 1897, which mandates that every statutory authority exercising discretionary powers must act fairly, justly, reasonably, and must pass a reasoned order. In the present case, the Grievance Redressal Committee has neither recorded proper reasons nor addressed the specific objections raised by the Appellant, and has merely uploaded an undated and non-speaking noting on E-PADS, which does not satisfy the mandatory requirements of law. The Impugned Order is liable to be set aside because the same is violative of Articles 4, 10A, 18 and 25 of the Constitution of Pakistan, 1973, inasmuch as the Appellant has been deprived of lawful treatment, due process, and fair opportunity in the procurement process through an arbitrary and hyper-technical disqualification not founded upon any condition of the bidding documents or applicable law. Such action amounts to denial of due process (Article 10A), failure to act in accordance with law (Article 4), unreasonable restriction on the Appellant's lawful business (Article 18), and discriminatory treatment vis-à-vis similarly placed bidders (Article 25), thereby rendering the Impugned Order unlawful, arbitrary, and without lawful authority.

11. The representative of the Respondent No. 1 (FESCO) submitted that the present Appeal is hopelessly barred by limitation and is liable to be dismissed in limine. The Grievance Redressal Committee rendered its decision on 11.06.2026, whereafter the Appellant availed its statutory remedy by filing Appeal No. PPRA/AP-39/2026. During the hearing held on 14.07.2026, the Hon'ble Appellate Committee observed that separate appeals ought to have been filed in respect of the individual lots. Acting upon the said observation alone, the Appellant instituted the present Appeal on 16.07.2026, after the expiry of the statutory period prescribed under the Public Procurement Rules, 2004. The subsequent filing neither extends nor revives the limitation period, nor do the Public Procurement Rules, 2004 provide any mechanism for filing a fresh appeal beyond limitation merely because of an objection regarding the form or number of appeals. Furthermore, the delay in filing the separate appeal by the Pakistan WAPDA Foundation was never legally condoned, and the present Appeal was instituted without filing any application seeking condonation of delay or assigning any sufficient cause explaining the delay. The maxim ignorantia juris non excusat (ignorance of the law excuses no one) squarely applies. The Appellant cannot avoid the consequences of its failure to institute separate appeals within the prescribed period by pleading ignorance of the legal requirement or by relying upon an

observation made during the hearing. In the absence of any order condoning the delay, the present Appeal is hopelessly barred by limitation and is liable to be dismissed in limine.

12. Further submitted that the description of the Appellant as a Non-Profit Organization and its alleged welfare activities are irrelevant to the controversy involved in the present Appeal. Public procurement is governed by statutory rules and bidding documents which apply uniformly to every bidder irrespective of its organizational status, past experience or charitable objectives. Eligibility and responsiveness are to be determined strictly in accordance with the applicable procurement framework and not on equitable considerations.

13. Further submitted that Tender No. 3052/MM/FESCO/TRW/2025-26 was duly advertised, the Appellant submitted its bid through e-PADS, and the Evaluation Committee declared the Appellant non-responsive. However, the Appellant's attempt to characterize the reason for rejection as a mere "technical knockout" is emphatically denied. The bid was rejected because the registered bidder identity appearing on the e-PADS platform did not correspond with the identity reflected in the submitted bid documents, thereby creating a material inconsistency concerning the identity of the contracting party.

14. Further submitted that the Appellant's assertion that it was the lowest bidder is neither admitted nor relevant for determination of the present Appeal. Under the Public Procurement Rules, 2004, financial evaluation is undertaken only after determination of responsiveness. A bidder whose bid is found non-responsive cannot claim any right merely on the basis of having quoted the lowest price. Price competitiveness cannot cure or override a material defect affecting the responsiveness of a bid.

15. Further submitted that it is denied that the Grievance Redressal Committee passed an illegal or non-speaking decision. The Committee independently examined the record, heard the

representatives of both parties, considered the relevant procurement framework, and recorded specific findings that the discrepancy in bidder identity created ambiguity regarding contractual enforceability, procurement transparency and accountability. The GRC further found no evidence of mala fide, discrimination or procedural impropriety on the part of the Evaluation Committee. The findings of the GRC are part of the record and fully support the impugned decision.

16. Further submitted that the impugned decision neither suffers from any jurisdictional defect nor violates any provision of the Public Procurement Rules, 2004, the E-Pak Procurement Regulations, 2023 or the Constitution of the Islamic Republic of Pakistan. On the contrary, the Evaluation Committee and the Grievance Redressal Committee acted strictly within the scope of their statutory authority and in faithful discharge of their obligation to preserve transparency, fairness and integrity in public procurement.

17. Further submitted that the Appellant incorrectly characterizes the discrepancy as merely a "login name" issue. The defect concerns the registered e-PADS vendor profile, the bidder's electronic identity through which the bid was submitted, not the portal username. The bidder is solely responsible for ensuring that its vendor profile accurately reflects its legal identity in accordance with the E-Pak Procurement Regulations, 2023.

18. Further submitted that the Appellant itself admits that the vendor profile displayed "Transformer Repair," whereas the bid was submitted in the name of Pakistan WAPDA Foundation. Having participated through that profile, the Appellant cannot shift the consequences of its own non-compliance to the Procuring Agency. The Appeal proceeds on the erroneous assumption that every discrepancy is curable through clarification. While clarifications may explain information already contained in a bid, they cannot cure material defects affecting bid responsiveness. A discrepancy relating to the bidder's identity is

a material defect that cannot be rectified after bid opening without undermining the principles of transparency, equality, and fair competition.

19. Further submitted that the Appeal is hopelessly barred by limitation and is liable to be dismissed in limine. The Grievance Redressal Committee rendered its decision on 11.06.2026, whereas the present Appeal was instituted only on 16.07.2026, beyond the period prescribed under the Public Procurement Rules, 2004. That the Appellant had already availed the statutory remedy by filing Appeal No. PPRA/AP-39/2026 within limitation. During the hearing held on 14.07.2026, the Hon'ble Appellate Committee observed that separate appeals ought to have been filed in respect of the individual lots. Such observation neither enlarged nor extended the statutory period of limitation nor created any fresh cause of action in favor of the Appellant.

20. Further submitted that the Public Procurement Rules, 2004 do not provide any mechanism whereby a fresh appeal may be instituted after expiry of the prescribed limitation merely because of an objection regarding the form, maintainability or number of appeals. The subsequent filing is, therefore, ex facie barred by limitation. The Appellant instituted the present Appeal without filing any application seeking condonation of delay or assigning any sufficient cause explaining the delay. The delay in filing the separate appeal was never legally condoned by this Hon'ble Authority. In the absence of any application for condonation of delay or any order condoning the same, the present Appeal is not maintainable. That the maxim ignorantia juris non excusat (ignorance of law excuses no one) squarely applies to the facts of the present case. If the Appellant was legally required to file separate appeals for each lot, it was incumbent upon it to do so within the period prescribed by law. Its failure to comply with the statutory requirement cannot be cured after expiry of limitation merely because the legal position was pointed out during the hearing. That limitation is founded upon public policy and cannot

be enlarged, waived or circumvented except in accordance with law. The Appellant cannot acquire a fresh right of appeal after expiry of the statutory period by splitting the original cause of action into multiple proceedings. That without prejudice to the foregoing preliminary objections, the present Appeal is otherwise misconceived, devoid of merit and liable to be dismissed. The Appellant has deliberately mischaracterized the controversy by portraying the issue as a mere discrepancy in the login name. The actual defect relates to the Appellant's registered e-PADS vendor profile, which constitutes its electronic identity within the procurement system.

21. Further submitted that the Appellant voluntarily participated in the procurement process through an e-PADS vendor profile registered under the business name "Transformer Repair", whereas the bid documents were submitted in the name of Pakistan WAPDA Foundation. Consequently, the registered electronic identity of the bidder appearing on the procurement platform did not correspond with the identity reflected in the submitted bid documents, thereby creating a material inconsistency affecting the identity of the contracting party.

22. Further submitted that under the E-Pak Procurement Regulations, 2023, the responsibility for maintaining genuine, authentic and updated registration particulars rests exclusively upon the bidder. The Procuring Agency neither creates nor modifies vendor profiles registered on e-PADS and possesses no authority to alter the bidder's registered particulars after submission of bids.

23. Further submitted that the discrepancy originated solely due to the Appellant's own failure to maintain its registered vendor profile in conformity with its claimed legal identity. Such discrepancy was neither created by the Procuring Agency nor capable of being rectified after bid opening without violating the principles of transparency, equality and fairness governing public procurement.

24. Further submitted that the inconsistency in the registered bidder identity constituted a material irregularity affecting bidder identity, contractual enforceability and procurement transparency, thereby rendering the bid non-responsive under the applicable bidding documents, **particularly IB Clauses 30.1, 30.2 and 30.3.**

25. Further submitted that the Grievance Redressal Committee, after hearing both parties and independently examining the record, affirmed the decision of the Evaluation Committee and specifically found that the inconsistency created ambiguity regarding bidder identity, contractual enforceability and procurement transparency, while further recording that no mala fide, discrimination or deviation from the prescribed evaluation process had been committed by the Evaluation Committee. The Appellant's reliance upon the clarification mechanism under the Instructions to Bidders is misconceived. Clarification cannot be invoked to cure a material defect affecting bidder identity or to permit rectification of a non-responsive bid after bid opening.

26. Further submitted that the Appellant's reliance upon previous procurements allegedly conducted through the same e-PADS profile is wholly irrelevant. Each procurement constitutes an independent statutory process, and any alleged acceptance in previous procurements neither validates the present defect nor creates any estoppel against the Procuring Agency in enforcing the applicable procurement laws.

27. Further submitted that the Appellant has failed to establish any illegality, jurisdictional error, procedural impropriety, perversity or mala fide in either the decision of the Evaluation Committee or the findings recorded by the Grievance Redressal Committee. The present Appeal is therefore devoid of merit and liable to be dismissed with costs.

28. The representative of the Respondent No. 3 (M/s Swat Industries Private Limited) submitted that the instant Appeal, in so far as it seeks to disturb the award made in favor of the answering Respondent against Lot-II of Tender No. 3052/MM/FESCO/TRW/2025-26, has been rendered infructuous and incompetent, inasmuch as the procurement process qua Lot-II has already culminated in a concluded and binding contract. Consequent upon determination of the answering Respondent as the successful bidder for Lot-II, Respondent No. 1 issued a Letter of Intent/Notification of Award in favor of the answering Respondent, pursuant whereto the answering Respondent tendered its Acceptance Letter. The answering Respondent has furnished the requisite Performance Guarantee, being a Bank Guarantee amounting to Rs. 4,941,250/-, issued by United Bank Limited and valid up to 31.10.2028, in terms of the said Rate Contract. It is expressly recorded in the Rate Contract itself that ***"a binding contract has been concluded with the issuance of this rate contract and that the provisions of this contract shall be binding on you, on your assigns, executers, administrators and all those who have any interest pecuniary or otherwise in your concern".*** Execution of the contract stands underway/substantially performed pursuant thereto. It is settled that once a procurement process has fructified into a concluded contract creating vested and accrued contractual rights and obligations in favour of a third party who is not shown to be guilty of any fraud or collusion, the same cannot be unscrambled, reopened or set at naught in appellate/grievance proceedings, and the only consequence of allowing such a belated challenge would be to penalize an innocent, successful bidder for a controversy pertaining exclusively to a rival bidder's own non-compliance. The Appeal, to the extent it seeks such relief, is therefore not maintainable and is liable to be dismissed on this short ground alone.

29. Further submitted that the Appeal is further incompetent for want of proper and lawful authorization on the part of the Appellant. A bare perusal of the record reveals that the institution of the present Appeal, and the underlying grievance before the GRC, is founded solely upon an Authorization Letter dated 22.06.2026 issued by the Managing Director, Pakistan WAPDA Foundation, in favor of one Mr. Altaf Qadir, and a further authorization dated 18.05.2026 in favor of the learned counsel. No Resolution of the Board of Governors/Board of Directors of the Appellant, nor any extract thereof, authorizing the Managing Director to institute the present proceedings or to delegate such authority, has been annexed, referred to, or otherwise placed on record. The Appellant, being a juristic/artificial person, admittedly having a Board as reflected in its own registered business profile on the E-PADS portal, can sue or authorize litigation only through a resolution of its competent corporate organ, and the self-authorization of one officer by another, without demonstrable sanction of the Board, does not satisfy the requirement of valid institution of proceedings. The Appeal is accordingly incompetent and not maintainable for want of a competent and duly authorized Appellant.

30. Further submitted that the Appeal, in its present form, is misconceived and procedurally incompetent for yet another independent reason, namely that it has been filed as a single, composite Appeal against three entirely independent and severable Lots of the subject Tender, being Lot-I, Lot-II and Lot-III, notwithstanding that each Lot was separately evaluated, separately decided, and separately awarded to three distinct and unconnected successful bidders, namely the Respondent No. 3, Respondent No. 4 and Respondent No. 5 respectively, each possessed of independent and severable contractual rights and interests. Further submitted that in terms of IB Clause 44.7 of the Bidding Document, read with Rule 48(7) of the Public Procurement Rules, 2004, an Appeal before this Hon'ble Authority is required to be filed "on prescribed format after

depositing the Prescribed fee", and it is the settled and consistent practice of this Hon'ble Authority that where a tender comprises multiple, independently decided Lots or Packages, a separate Appeal, accompanied by the separately prescribed fee, is required to be filed in respect of each such Lot. The record itself bears this out: a solitary Pay Order for Rs. 267,125/- alone has been deposited in favor of the Authority, which, even taken at its highest, cannot be treated as three separate prescribed fees corresponding to three independent Lots and three independent causes of action. The composite Appeal, clubbing three distinct causes of action against three unconnected private parties without separate fee, is therefore not maintainable in its present form and is liable to be dismissed, or, in the alternative, treated as incompetent unless split into three separate Appeals with the prescribed fee deposited separately against each Lot.

31. Further submitted that without prejudice to the preliminary objections raised above, and even otherwise on merits, the present Appeal is wholly misconceived, unsubstantiated and liable to dismiss, as it proceeds on the incorrect premise that the Appellant was declared non-responsive on account of a trivial or curable clerical discrepancy. The true position, as borne out by the record, is that the Appellant's own registered vendor profile on the E-PADS portal, being its recognized electronic identity for the purposes of the entire procurement, was maintained under the business name "Transformer Repair", whereas the bid documents uploaded through that very profile were issued in the name of an altogether different entity, namely Pakistan WAPDA Foundation. This is not a question of a login label; it is a question of which legal entity actually participated in, and would be bound by, the procurement.

32. Further submitted that the sanctity and consistency of the bidder's registered profile on E-PADS is not a matter of internal convenience; it is the very mechanism through which the E-Pak Procurement Regulations, 2023 secure the identifiability and

accountability of every participant in the electronic procurement system. The obligation to ensure that such profile correctly and consistently reflects the participating entity rests squarely and exclusively upon the bidder, and the answering Respondent, along with the other responsive bidders, cannot be made to suffer for a discrepancy that originates entirely from the Appellant's own default in maintaining its registration particulars.

33. Further submitted that had the Appellant's bid been accepted despite this discrepancy, the resultant Letter of Intent and Purchase Order would necessarily have issued in favor of the profile registered as "Transformer Repair", an entity which the Appellant itself does not claim to be a distinct legal person. This would have left the identity of the contracting party, and consequently the enforceability of the resultant contract, in a state of irremediable uncertainty, to the serious prejudice of Respondent No. 1 and of the other genuinely responsive bidders, including the answering Respondent. Certainty as to the identity of the contracting party is not a peripheral or cosmetic requirement; it lies at the very root of contract formation, and any defect touching upon it is, by definition, a material deviation and not a mere irregularity capable of being waived or clarified away.

34. Further submitted that the Appellant's grievance was duly examined by the Grievance Redressal Committee constituted under the applicable procurement framework, that the Appellant's own authorized representatives were afforded a full and proper opportunity of hearing before the said Committee, and that the Committee, upon consideration of the record and the submissions of the parties, did not find any illegality, mala fide, discrimination or procedural impropriety in the manner in which the Evaluation Committee had proceeded. Further submitted, independently of the said proceedings, that any discrepancy between the identity of a bidder as registered on the electronic procurement portal and the identity reflected in the documents comprising its bid inherently creates ambiguity as to the entity

that would assume contractual obligations under the resultant contract, and that the responsibility of ensuring the correctness and consistency of such registration particulars rests entirely and exclusively upon the bidder concerned. These are not matters resolved arbitrarily or without application of mind; they represent a considered conclusion reached after due hearing of both sides, and the Appellant's mere disagreement therewith furnishes no ground for interference by this Hon'ble Authority.

35. Further submitted that the answering Respondent, unlike the Appellant, duly complied with every commercial and technical requirement of the Bidding Document and was accordingly and rightly determined to be the Commercially and Technically Most Advantageous Responsive Bidder for Lot-II, as reflected even in the Appellant's own pleadings, at a bid value of Rs. 118,750,000/-. The answering Respondent's bid security was furnished through Allied Bank CDR No. 14544475 dated 09.03.2026, and the answering Respondent's technical and commercial responsiveness, including compliance with the Contractual Experience criterion prescribed under the Bidding Document, was duly verified in the ordinary course of the evaluation process. It would be manifestly inequitable, and contrary to settled procurement principles, to unsettle the legitimate expectations and accrued rights of a bidder who has fully complied with the tender conditions merely to accommodate a rival bidder's own failure to maintain the correctness of its electronic registration.

36. Further submitted that the price differential relied upon by the Appellant is wholly irrelevant, as it is trite that financial evaluation and price comparison arise only after, and are entirely contingent upon, a bid first being found substantially responsive. A non-responsive bid, however competitively priced, confers no right of consideration, still less a right to displace a concluded award in favour of a fully responsive bidder such as the answering Respondent.

37. Further submitted that the description of the Appellant as a Non-Profit Organization and the recitation of its purported welfare objectives are wholly extraneous and irrelevant to the controversy at hand. Public procurement proceedings are governed strictly by the Public Procurement Rules, 2004, the E-Pak Procurement Regulations, 2023 and the Bidding Documents, which apply uniformly to every participant regardless of its organizational character, and no equitable latitude on account of alleged philanthropic activity can be extended so as to dilute mandatory requirements of bid responsiveness.

38. Further submitted that the Tender was advertised, that the Appellant participated through E-PADS, and that it was declared non-responsive by the Evaluation Committee. It is, however, specifically denied that the ground of rejection was a mere "technical knockout". As detailed in the Preliminary Submissions above, the rejection was founded upon a material and substantive discrepancy going to the very identity of the participating bidder, and not upon any trivial or curable defect.

39. Further submitted that the Appellant's price ranking has any bearing on the present controversy. As submitted above, price comparison is undertaken only among bids already found substantially responsive, and the Appellant, having been correctly found non-responsive, cannot invoke its quoted price to claim any right, equitable or otherwise, particularly at this stage when the contract for Lot-II already stands concluded in favor of the answering Respondent.

40. Further submitted that it is emphatically denied that the decision of the Grievance Redressal Committee was illegal, non-speaking or otherwise infirm. It is a matter of record that the Committee issued due notice to the Appellant, afforded a hearing to its authorized representatives, examined the record of both the Procuring Agency and the Evaluation Committee, and thereafter arrived at a reasoned conclusion which fully supports and

sustains the impugned decision. The Appellant's assertion that no order was communicated to it is factually incorrect and is, in any event, without prejudice, since the Appellant itself admits having filed the present Appeal within limitation upon acquiring knowledge of the decision.

41. Further submitted that the impugned decision does not suffer from any jurisdictional infirmity, nor does it offend any provision of the Public Procurement Rules, 2004, the E-Pak Procurement Regulations, 2023, or the Constitution of the Islamic Republic of Pakistan. The Evaluation Committee and the Grievance Redressal Committee, at all material times, acted squarely within the four corners of their statutory mandate and in furtherance of the paramount principles of transparency, fair competition and integrity that govern public procurement, principles which the answering Respondent, as a genuinely responsive bidder, is entitled to have upheld.

42. Further submitted that the bid was not declared non-responsive merely because the Appellant "logged in" under one name; it was declared non-responsive because the Appellant's own registered E-PADS vendor profile, being its recognized electronic identity for participation in the procurement, did not correspond to the entity in whose name the bid documents were submitted. Certainty of bidder identity is an implicit and indispensable precondition of every procurement exercise, and Rule 7(a) of the PPRA Rules, 2004 cannot be read so restrictively as to exclude such a fundamental requirement merely because it is not separately enumerated therein.

43. Further submitted that the absence of an express clause requiring verbatim correspondence between the E-PADS profile name and the bid documents does not assist the Appellant, since no Bidding Document can be expected to enumerate every conceivable irregularity capable of affecting responsiveness. The requirement of a clear and unambiguous bidder identity is inherent in the very concept of a "bid" and a "bidder" as employed

throughout the Bidding Document, and the Procuring Agency, in declaring the Appellant non-responsive on this ground, introduced no new condition but merely applied an existing and self-evident requirement of the procurement framework.

44. Further submitted that reliance on IB Clause 29 is misplaced, as the power of clarification thereunder is confined to seeking or accepting an explanation of information already contained within a bid; it cannot be stretched into a mechanism for altering, substituting or curing the very identity of the bidder after bid opening. Permitting such rectification would have conferred upon the Appellant an advantage denied to every other bidder, including the answering Respondent, and would have struck at the principles of equal treatment and transparency that IB Clause 29 itself is designed to protect.

45. Further submitted that Regulation 5(v) of the E-Pak Procurement Regulations, 2023 governs registration and verification of a bidder's profile on E-PADS for the purposes of onboarding onto the portal; it does not, and cannot, immunize every subsequent bid submitted through that profile from scrutiny of responsiveness by the Procuring Agency in a specific tender. The obligation to keep the profile accurate and updated rests on the bidder, not the Authority or the Procuring Agency, and the plea of coram non judice is wholly untenable, since the Evaluation Committee acted squarely within its statutory function of determining responsiveness under Rule 35 of the PPRA Rules, 2004. Any alleged acceptance of the same profile in unrelated, prior tenders of other DISCOs neither cures the default in the present Tender nor operates as an estoppel against Respondent No. 1, each procurement being a distinct and independent statutory exercise.

46. Further submitted that responsiveness under the Bidding Document is not confined to technical specification and price; it necessarily extends to compliance with every material requirement of the bid, including the unambiguous identification

of the entity submitting it. The discrepancy in the present case went directly to that requirement, materially affecting the Purchaser's rights and the enforceability of any resultant contract within the meaning of IB Clause 30.2, and therefore squarely constitutes a material deviation rendering the bid non-responsive.

47. Further submitted that the record demonstrates that the Grievance Redressal Committee issued due notice, afforded a full hearing to the Appellant's representatives, and rendered a detailed and reasoned decision addressing the controversy. The Appellant, by its own conduct in filing the present Appeal within limitation, evidences that it was neither prejudiced nor left uninformed of the decision, and any residual grievance as to the precise mode of communication is technical in nature and incapable of vitiating an otherwise lawful and reasoned decision.

48. Further submitted that Section 24A of the General Clauses Act, 1897 requires a statutory authority to act reasonably, fairly and to record reasons; it does not entitle a party to demand that its own version of events be accepted. The decision of the Grievance Redressal Committee records reasons which address the specific contentions raised by the Appellant and arrives at a considered conclusion after hearing the parties. This fully satisfies the requirements of Section 24A, and mere disagreement with the outcome does not render the order arbitrary, non-speaking or unreasoned.

49. Further submitted that the no violation of Articles 4, 10A, 18 or 25 of the Constitution of the Islamic Republic of Pakistan, 1973 is made out on the record. The Appellant was evaluated on the same criteria applicable to every other bidder, was afforded due notice and hearing before the Grievance Redressal Committee, and has been treated no differently from any other bidder found non-responsive on account of its own default. Article 25 mandates equal treatment under the law; it does not mandate relaxation of mandatory bidding conditions in favor of a

particular bidder, and to grant the relief sought by the Appellant would it amount to unequal and preferential treatment, to the direct prejudice of the answering Respondent, who fully complied with the applicable requirements.

50. The Appellate Committee heard the learned counsels for the Appellant, Respondent No.1/FESCO and Respondent No.3, and examined the record, bidding documents, Evaluation Report, grievance proceedings, relevant provisions of the Public Procurement Rules, 2004, the E-Pak Procurement Regulations, 2023, and the submissions advanced by the parties.

51. In terms of Rules 29 & 30 of the Public Procurement Rules, 2004, which is reproduced as under:

**29. Evaluation criteria: -**

*Procuring agencies shall formulate an appropriate evaluation criterion listing all the relevant information against which a bid is to be evaluated. Such evaluation criteria shall form an integral part of the bidding documents. Failure to provide for an unambiguous evaluation criteria in the bidding documents shall amount to mis-procurement.*

**30. Evaluation of bids**. –

*(1) All bids shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the prescribed bidding documents. Save as provided for in sub-clause (iv) of clause (c) of rule 36 no evaluation criteria shall be used for evaluation of bids that had not been specified in the bidding documents.*

52. It is pertinent to mention that no deviation from the specifications, terms and conditions specified in the bidding documents & evaluation criteria is permissible. The procuring agency shall proceed strictly in accordance with terms and conditions set forth in the bidding documents. All participants in the bidding process

are bound by the terms and conditions of tender documents and cannot go beyond the purview and ambit of the tender documents.

53. In terms of Rule 2 (a) of the Public Procurement Rules, 2004, which states: "bid" means a tender, or an offer, in response to an invitation, by a person, consultant, firm, company or an organization expressing his or its willingness to undertake a specified task at a price;

54. In terms of Rule 2 (b) of the Public Procurement Rules, 2004, which states: "bidder" means a person who submits a bid.

55. In terms of Regulation 3 "Scope" of the "E-Pak-Procurement Regulations, 2023", which states: (l) In accordance with the E-Pak Acquisition & Disposal System of the Federal PPRA, the Authority, all Procuring Agencies and bidders including prospective bidders shall use the system starting from planning to the close out of contracts in case of public procurement of goods, works, services and commercial transactions and shall also cover all the aspects of Regulatory Framework as well.

56. In terms of Regulation 5 (5) "Centralized Registration" of the "E-Pak-Procurement Regulations, 2023", which states: All the bidders intending to participate in the public procurement process are required to get registered online as a single entity, joint venture or association with sub-consultant or sub-contractor by filling standard entries through dedicated secured dashboard. The bidders shall register itself for each sub-category of procurement (i.e. goods, services, works, commercial transactions and disposal of public assets) separately or as combined categories i.e. EPC and EPCC etc.

57. In terms of Regulation 5 (7) "Centralized Registration" of the "E-Pak-Procurement Regulations, 2023", which states: The information submitted by the bidders shall be genuine, authentic, true and valid on the date of registration and if any information found to be false or any violation of the allied terms and conditions of the e-PADS or misrepresentation by the user while uploading his profile details or executing other activities related to public procurement, the authority may cancel or suspend the

registration of any vendors at any time in addition to initiating legal proceedings in this regard.

58. The Appellate Committee has considered the submissions of all parties. The principal question requiring determination is whether the discrepancy between the E-PADS profile name "Transformer Repair" and the name "Pakistan WAPDA Foundation/PWF" appearing in the bid documents constituted such a material deviation as to justify rejection of the Appellant's bids as non-responsive.

59. The Appellate Committee observed that, although the bidder was reflected in the Evaluation Report dated 14.05.2026 as "Transformer Repair," the remarks column recorded the bid as "Non-Responsive" on that ground, notwithstanding the bidder's registration on E-PADS under the name "Transformer Repair," the bid was submitted through E-PADS in the name of "PWF," accompanied by the same CDR. The Committee, therefore, determined that the bid had in fact been submitted in the name of "PWF" and that the reference to "Transformer Repair" in the Evaluation Report constituted a typographical / mistaken entry.

60. The Appellate Committee has also considered Rule 2(a) and Rule 2(b) of the PPRA Rules, 2004, which define "bid" and "bidder", respectively. A bidder is a person who submits a bid, while a bid is an offer submitted in response to an invitation to undertake a specified task at a price. The identity of the entity submitting the bid is undoubtedly relevant to the procurement process. However, the question is whether the particular discrepancy found in the present case was of such a nature as to make the bid materially non-responsive.

61. Regulation 3 of the E-Pak Procurement Regulations, 2023 provides for use of the E-PADS system by the Authority, Procuring Agencies and bidders throughout the procurement process. Regulation 5(5) requires bidders intending to participate in public

procurement to register online as a single entity, joint venture or association through the prescribed dashboard. Regulation 5(7) requires information submitted by bidders to be genuine, authentic, true and valid. The record has been examined in the light of the aforesaid provisions. The Appellate Committee noted that although the name of the bidder reflected in the Evaluation Report was "Transformer Repair", the remarks column stated that the bidder had registered/logged into E-PADS under the name "Transformer Repair", whereas the bid was submitted in the name of "PWF", accompanied by the same CDR.

62. The critical aspect of the matter is that the bid documents themselves identified Pakistan WAPDA Foundation as the bidder and the bid was accompanied by the same bid security/CDR. The record did not disclose the participation of two competing or separate legal entities, nor has any allegation been established that the Appellant attempted to substitute one legal entity for another after opening of the bid. The discrepancy was essentially between the name appearing on the E-PADS profile and the name appearing in the bid documents.

63. The Appellate Committee is of the considered view that the discrepancy, though an irregularity which ought to have been avoided by the Appellant through maintenance of accurate E-PADS particulars, did not, on the facts available on record, go to the substance of the bid so as to render it materially non-responsive. The identity of the bidder is ascertainable from the bid documents, and the same bid security was furnished in support of the bid. No material has been placed before the Appellate Committee demonstrating that any third party was claiming the bid, that the Appellant was incapable of undertaking the contract, or that acceptance of the bid would have resulted in an uncertain or unenforceable contracting party.

64. It is also significant that the bidding documents and evaluation criteria have not been shown to contain an express condition stipulating that the name appearing on the E-PADS vendor profile

must be identical, word for word, with the name appearing in the bid documents, failing which the bid would automatically stand rejected. Rule 30 of the PPRA Rules requires evaluation in accordance with the prescribed criteria. A Procuring Agency cannot introduce a new disqualifying criterion at the evaluation stage which was not contained in the bidding documents.

65. The Appellate Committee is mindful of the submission advanced by the Procuring Agency that bidder identity is fundamental to contractual enforceability. This proposition, in the abstract, is correct. Nevertheless, the issue before the Appellate Committee is not whether bidder identity is important, but whether the particular discrepancy in the present case created any actual uncertainty as to the legal entity that submitted the bid. Upon examination of the record, the Appellate Committee finds that no such uncertainty has been established.

66. The Appellate Committee observed that the Appellant's reliance upon IB Clause 29 also merits consideration. The clarification mechanism cannot be used to permit a bidder to make a material alteration to its bid after opening. However, seeking clarification to ascertain an apparent discrepancy in nomenclature, where the substantive identity of the bidder and supporting bid documents remain unchanged, is materially different from permitting a bidder to substitute one legal entity for another. In the present case, clarification could have been sought merely to verify the relationship between the E-PADS profile "Transformer Repair" and Pakistan WAPDA Foundation, without permitting any alteration to the financial or substantive terms of the bid.

67. The Appellate Committee finds that the Procuring Agency adopted an unduly technical approach in treating the discrepancy as a material deviation without first determining whether the discrepancy had any substantive effect upon the bid, the identity of the contracting entity, or the integrity of the procurement process. The defect was capable of clarification and did not, in the

circumstances of this case, warrant the extreme consequence of disqualification.

68. The Appellate Committee is also conscious that public procurement is intended not merely to ensure procedural compliance but to secure transparency, competition, economy and value for public money. Where a discrepancy is capable of resolution without changing the substance of a bid or conferring an unfair advantage upon a bidder, rejection of the lowest otherwise eligible bid solely on account of a nomenclature discrepancy may result in avoidable financial prejudice to the Procuring Agency. The financial implications are particularly relevant in the present case.

69. The Appellate Committee further noted that the record reflects, that the Appellant quoted Rs.89.625 million for Lot-I, Rs.92.775 million for Lot-II and Rs.84.725 million for Lot-III, whereas the next responsive bidders were quoted substantially higher amounts. Although the lowest price by itself cannot cure a materially non-responsive bid, where the alleged defect is found to be a minor and curable deviation rather than a material failure, the public interest in obtaining value for public funds assumes considerable significance.

70. The Appellate Committee considers that the principles of economy and safeguarding of public funds require the Procuring Agency to avoid rejection of an otherwise eligible and lowest bid on a purely technical ground where the defect neither alters the substance of the bid nor prejudices other bidders.

71. The Appellate Committee observes that the GRC was required to determine whether the Appellant's grievance had merit in accordance with the applicable procurement framework. Having found that the disqualification was based upon an overly technical interpretation of the discrepancy, the impugned GRC decision cannot be sustained to the extent that it upheld the Appellant's

rejection without requiring clarification of the apparent nomenclature discrepancy.

72. The Appellate Committee is of the view that the discrepancy between the E-PADS profile name "Transformer Repair" and the bid name "Pakistan WAPDA Foundation/PWF" was an irregularity, but, in the peculiar facts and circumstances of the case, it constituted a minor deviation capable of clarification and did not amount to a material deviation warranting rejection of the bids as non-responsive.

73. The Procuring Agency shall, before proceeding further, verify from the Appellant the legal relationship between the E-PADS profile "Transformer Repair" and Pakistan WAPDA Foundation, confirm the authenticity and validity of the bid documents and bid security, and satisfy itself that no change in the substantive terms of the bids is involved. Such verification shall be limited strictly to clarification of the existing record and shall not permit alteration of price, specifications, eligibility or any other substantive term of the bids.

74. For the reasons recorded above, the Appeal is hereby accepted. The Evaluation Report dated 14.05.2026, to the extent it declares the Appellant non-responsive in Lot-I, and Lot-II solely on account of the discrepancy between the E-PADS profile name "Transformer Repair" and the name "Pakistan WAPDA Foundation/PWF" appearing in the bid documents, is set aside. The decision of the Grievance Redressal Committee rejecting the Appellant's grievance on the same ground is likewise set aside.

75. Respondent No.1/FESCO is directed to undertake the requisite verification/clarification regarding the E-PADS profile and bidder identity and thereafter re-evaluate the Appellant's bids strictly in accordance with the bidding documents, prescribed evaluation criteria and the Public Procurement Rules, 2004.

76. If, upon such verification, the Appellant is found otherwise eligible and its bids are otherwise substantially responsive, its financial bids shall be considered in accordance with law and the prescribed evaluation criteria. The Procuring Agency shall take all consequential steps in accordance with the applicable procurement framework, keeping in view the rights, if any, already accrued under any concluded contract.

77. The Appellate Committee emphasizes that the acceptance of the Appeal does not amount to relaxation of mandatory procurement requirements. It is confined to the finding that the particular discrepancy identified in the present case is a minor, curable deviation and should not, without first seeking clarification, have resulted in the rejection of the lowest bids. The Procuring Agency shall nevertheless ensure complete transparency, equal treatment of bidders and strict compliance with the bidding documents and applicable law.

78. In view of the foregoing, <u>the Appeal stands ***accepted***, subject to the above directions</u>.

**(Dr. Muhammad Aslam Waseem)**
Director General (Legal)
(Member)

**(Abdul Majeed)**
Sr. Specialist (M&E)
(Member)

**(Hasnat Ahmed Qureshi)**
Managing Director (PPRA)
(Chairman of the Committee)

**Dated:** <u>27th August, 2026</u>

Each page of the order has been signed by all members of the Committee. The order comprises twenty-eight (28) pages.