



National Electric Power Regulatory Authority
Islamic Republic of Pakistan

NEPRA Office Building, G-5/1, Attaturk Avenue (East), Islamabad
Phone: 051-9206500, Fax: 051-2600026
Website: www.nepra.org.pk, Email: registrar@nepra.org.pk

**OFFICE OF THE
REGISTRAR**

No. NEPRA/R/D(CAD)/TCD-02/16641-46


December 23, 2014

Chief Executive Officer
Islamabad Electric Supply Company Ltd. (IESCO)
Street No. 40, Sector G-7/4,
Islamabad

**Subject: APPEAL FILED BY IESCO AGAINST THE DECISION OF NEPRA
TRIBUNAL IN THE MATTER OF AL-QAIM TEXTILE MILLS LIMITED
REGARDING RECOVERY OF ENERGY UNITS LOST IN RESPECT OF
11KV INDEPENDENT FEEDER W.E.F. APRIL 2011 TO MAY 2013
Complaint # IESCO-42-2014**

Please find enclosed herewith the decision of the Authority in the subject matter for necessary action and compliance within twenty (20) days of receipt of this letter.

Encl:/As above

 28/12/14
(Iftikhar Ali Khan)
Deputy Registrar

Copy to:

C.E./Customer Service Director,
Islamabad Electric Supply Company Ltd. (IESCO),
Street No. 40, Sector G-7/4,
Islamabad

Mr. Hameed Asghar Awan,
General Manager,
Al-Qaim Textile Mills Limited,
Awan House, Faisal Colony,
Talagang Road, Chakwal



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(Iftikhar Ali Khan)

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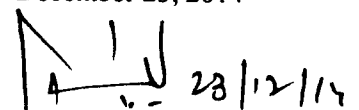
C.E./Customer Service Director, Islamabad Electric Supply Company Ltd.
(IESCO), Street No. 40, Sector G-7/4, Islamabad

Mr. Hameed Asghar Awan, General Manager, Al-Qaim Textile Mills Limited,
Awan House, Faisal Colony, Talagang Road, Chakwal

No. NEPRA/R/D(CAD)/TCD-02/16647

December 23, 2014

Forwarded for information, please.


Deputy Registrar

Director (CAD) [As requested by CAD, the subject decision has been forwarded to IT section for its uploading on NEPRA website.]

Mr. Rizwan Ali, OA. [to scan the decision.]

Master File [w.r.t DCAD # 1737 dated 22.12.2014]

CC:

1. Chairman
2. Vice Chairman / Member (Licensing)
3. Member (Tariff)
4. Member (Consumer Affairs)
5. Member (M & E)

Distribution:

6. Deputy Director (I.T.)
 7. Assistant Director (I.T.)
- [Please place it on the NEPRA website immediately for the information of the general public. Scanned copy has been sent through e-mail Reference ARM 14-250]



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Mr. Hameed Asghar Awan,
General Manager,
Al-Qaim Textile Mills Limited,
Awan House, Faisal Colony,
Talagang Road, Chakwal



**BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)**

Complaint No: IESCO-42-2014

Islamabad Electric Supply Company (IESCO) Petitioner
Head Office IESCO,
Street No. 40, Sector G-7/4,
Islamabad.

Versus

Mr. Hameed Asghar Awan Complainant
General Manager,
M/s Al-Qaim Textile Mills Limited,
25 km, Talagang, Chakwal.

Date of Decision: 23rd October 2014

Present:

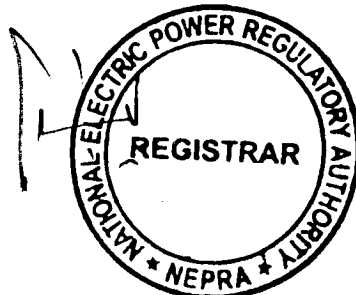
- | | | |
|----|------------------------|------------------------------------|
| 1) | Mr. Habibullah Khilji | Vice Chairman / Member (Licensing) |
| 2) | Maj. (R) Haroon Rashid | Member (Consumer Affairs) |
| 3) | Mr. Himayat Ullah Khan | Member (M&E) |

Subject: **DECISION OF THE AUTHORITY REGARDING APPEAL FILED BY IESCO AGAINST THE DECISION OF NEPRA TRIBUNAL IN THE MATTER OF AL-QAIM TEXTILE MILLS LIMITED REGARDING RECOVERY OF ENERGY UNITS LOST IN RESPECT OF 11 KV INDEPENDENT FEEDER W.E.F. APRIL 2011 TO MAY 2013**

DECISION

This decision shall dispose of an Appeal by Islamabad Electric Supply Company (hereinafter referred to as the "Petitioner" or "IESCO"), received on 17th June 2014, against the decision of NEPRA Tribunal dated 25th March 2014 in the matter of complaint of Al-Qaim Textile Mills Limited (hereinafter referred to as the "Complainant") filed under Section 12-A of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 ("NEPRA Act").

2. In pursuance to the orders of Honorable Lahore High Court, Rawalpindi Bench dated 15th January 2014, NEPRA received a complaint dated 24th February 2014 filed by M/s Al-Qaim Textile Mills Limited against IESCO.



3. As per the complainant, in the year 2010, IESCO shifted its energy meter from premises to grid station in contravention of Consumer Service Manual and Distribution Code. A complaint was filed in NEPRA whereby IESCO was directed to shift the billing meter from grid station to the consumer premises. Since then, the meter has been functional at the mill's premises. In June 2013, IESCO illegally and arbitrarily served a notice for recovery of energy units for the period from April, 2011 to May, 2013 and demanded an amount of Rs.2.218 million which was otherwise to be debited in next monthly bill. A petition was also filed before Honorable Lahore High Court, Rawalpindi Bench, and the Honorable Court restrained IESCO from including more than 1/10th of disputed unpaid amount in each next bill. However, the Complainant filed an Intra-Court Appeal against the interim order of Honorable High Court, Rawalpindi Bench. The Honorable Court referred the matter to NEPRA.

4. In order to dispose of the complaint within the limit prescribed by the Honorable Lahore High Court, Rawalpindi Bench, the Authority constituted a Tribunal under Section 11 of the NEPRA Act and delegated powers to the Tribunal under Section 12 of the NEPRA Act to hear and decide the case. Accordingly, the case was taken up with IESCO for submission of report which was submitted vide IESCO's letter dated 10th March 2014

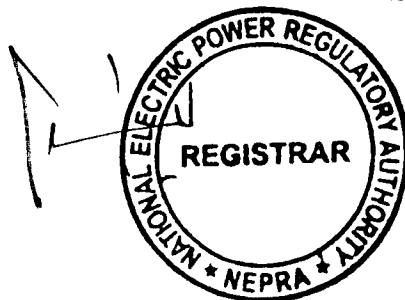
5. To proceed further into the matter, a hearing was held on 12th March 2014 which was attended by both the parties who advanced their respective arguments. After examining the case in detail in light of documents provided by both the parties, arguments advanced during the hearing and applicable law, the case was decided by the Tribunal and IESCO was directed as under:

- a) Measures be taken regarding improvement of technical parameters i.e. installation of capacitors and re-conductoring of the feeder etc. to bring the system parameters within permissible limits. Once the technical parameters are improved i.e. line losses are maintained upto 3%, then the complainant will not have any billing liability for losses and the bills shall be issued on the basis of meter reading recorded at consumer premises. The expenses pertaining to up-gradation of the feeder shall be borne by the complainant.
- b) IESCO to carry out routine maintenance of the feeder to reduce line losses, tripping, fluctuation etc.
- c) Withdraw the amount debited to the complainant due to units lost prior to issuance of notice on 17th June 2013.
- d) Line losses beyond permissible limit of 3% be recovered from the complainant w.e.f. the date of issuance of notice i.e. 17th June 2013 and onwards till the improvement in technical parameters of the feeder i.e. line losses are maintained upto 3%.
- e) Backup meters be installed at both sides i.e. Grid Station and consumer premises (in presence of the complainant's representative) in order to measure the exact line losses and meter reading be taken jointly at both ends by the parties every month.
- f) The billing of the complainant be revised and payments already made be adjusted accordingly.

6. Being aggrieved with the decision, IESCO filed the instant Appeal which was admitted for hearing. A hearing was scheduled for 23rd September 2014; however, upon request of IESCO, the hearing was postponed and re-scheduled for 23rd October 2014.

7. Main contents of the Appeal submitted by IESCO are as under:

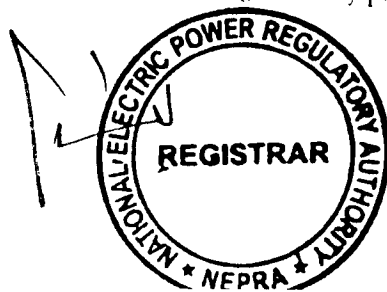
- i. The Tribunal has failed to consider that the demand of arrears on account of line losses pertained to April 2011 onwards and that is the period when the meter was shifted from Grid to premises on 10th March 2011.



- ii. The line losses did occur and the company was bound to pay those losses beyond permissible limit of 3%. Even otherwise, the appellant had demanded from the respondent the arrears on account of line losses from April 2011 when on the asking of the respondent the meter was shifted from Grid Station to Mill's premises. It is a known fact that the line losses do occur and those losses are paid by the consumer. However, the appellant/IESCO give a rebate of 3% to the consumer. The 3% loss is incurred by the appellant/IESCO only in order to share the burden of the consumer.
- iii. The appellant could not be restrained under the law to recover from the respondent the line losses prior to the notice dated 17th June 2013 as this fact was in the knowledge of respondent that line losses would definitely occur when the reading of meters at both ends would be taken. Insofar as, the demand made against the respondent on the basis of audit objection is concerned that was only pointing out the lapses on the part of the department and reminding it to do what they had left because of omission or commission or negligence. Audit objection does not mean that the bill was raised without any basis or the line losses. The audit objection should not have been made the basis of accepting the complaint.
- iv. The Tribunal has erred in law by putting the whole burden on the shoulders of appellants that no notice pointing out the old deteriorated conductors having many substandard joints was not given by the appellant. It may be stated that it was duty of the respondent to provide the appellant the material etc. for the improvement of installation of conductors etc. in order to bring the line losses within permissible limit of 3%. In fact, the respondent was duty bound to bring its losses up to the limit of 3%.
- v. There was no denial of the fact that the line losses did occur in the case in hand and the complaint of the respondent could not be accepted since the notice was given first on 28.05.2013 and the second on 17.06.2013
- vi. The amount of arrears up to May 2013 from April 2011 had been calculated to Rs.5.28 millions. The appellant could not be penalized because of non issuance of notice when the line losses had started to occur i.e. April 2011 and the respondent could not be exonerated of his duties.
- vii. The order is also not justified insofar as the withdrawal of amount debited to the complainant prior to issuance of notice dated 17th June 2013 is concerned.


8. During the course of the hearing, the counsel of the Appellant was present, however, no one appeared on behalf of the Respondent. The learned counsel for the Appellant reiterated the stance as per memo of Appeal. After hearing the arguments and perusal of the record, it may be observed as under:

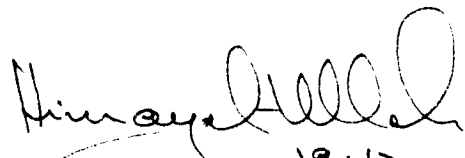
- i. As per the provisions of Consumer Service Manual and Distribution Code, meters of all categories of consumers are required to be installed at consumer premises.
- ii. In the instant matter, IESCO was earlier directed to shift the meter of the consumer from grid station to the premises. At that time, IESCO did not raise any observation w.r.t. shifting of meter or inclusion of line losses in consumer's bill over and above permissible limit (i.e. 3%). In case of any reservation against the specification of feeder's technical parameters, IESCO should have intimated to NEPRA or issued notice to the consumer for improvement of the feeder parameters.
- iii. On one hand, IESCO submitted that it charged energy loss beyond permissible limits on the observation of Audit (i.e. draft para 56/2013) and on other hand, IESCO stated that it charged difference of units to the consumer in light of NEPRA's decision in the matter of Al-Qadir Textile Mills vs IESCO. The said decision of NEPRA was issued on 27th August 2013, whereas, IESCO had already issued notice to the consumer on 17th June 2013 in pursuance to the audit para. Further, the case of Al-Qadir Textile Mills vs IESCO is different from the instant case as it was regarding extension of load and due to right of way problem, NEPRA decided that line losses upto





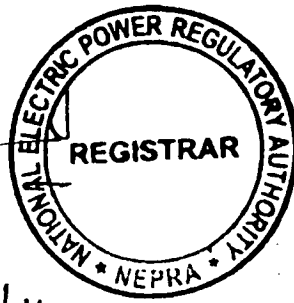
to be borne by IESCO and beyond that, they would be borne by the consumer till re-conductoring of the feeder. It was also mentioned in the decision that the same will not be quoted as precedent in other likewise cases.

9. For the foregoing reasons, the Authority is of the considered view that the impugned decision given by the Tribunal is based on legal and factual grounds and no illegality or irregularity as such has been observed. Accordingly, the Appeal is considered to be without merits and dismissed.


(Maj (R) Haroon Rashid)
Member


(Himayat Ullah Khan)
Member


(Habibullah Khilji)
Vice Chairman


23/12/14


NEPRA/R/TCD. /
/ / 2014

Chief Executive Officer
Islamabad Electric Supply Company (IESCO)
Street No. 40, Sector G-7/4,
Islamabad.

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Encl: As above

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General Manager,
Al-Qaim Textile Mills Limited,
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Talagang Road, Chakwal.

7

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63. Islamabad Electric Supply Company Limited (IESCO) filed an Appeal under Section 12-A of the NEPRA Act, through Sheikh Iftekhar Ahmad, Advocate Supreme Court, on 17th June 2014 against the decision of NEPRA Tribunal in the matter of Al-Qaim Textile Mills Limited regarding recovery of energy units lost in respect of 11 kV independent feeder w.e.f. April 2011 to May 2013.

64. The Appeal was placed before the Authority in Regulatory Meeting (RM 14-523) held on 9th August 2014, wherein the Authority decided to admit the appeal for hearing (copy of minutes/decision is placed at F/A). Accordingly, hearing was scheduled for 23rd September 2014 at NEPRA Head Office, Islamabad. However, IESCO vide its letter No. 9150-54/CE/IESCO/CSD(S) dated 23rd September 2014 (PUC) submitted as under:

IESCO's legal counsel, Sheikh Iftekhar Ahmad, is engaged in High Court and not in a position to attend NEPRA office on 23rd September 2014 to pursue the Appeal. It is, therefore, requested that hearing may kindly be re-scheduled preferably upto 23rd October 2014.

65. After taking approval of the Authority, the hearing was postponed. Accordingly, draft letter/hearing notice has been prepared (DFA) wherein the date of hearing has been proposed as 23rd October 2014, and the same is submitted for perusal/approval, please.

[Signature]

(Danish Ali Shali)
Sr. Assistant Director (CAD)

30/9/14

Director (CAD)

66. Please confirm the date keeping in view the schedule of the Authority so that DFA can be issued.

[Signature]

30/09/14

Director (Co-ord)

67. Fixed for 23/10/14.
14/10/14

[Signature]

09/10/14

Director (CAD)

68. DFA is submitted for perusal/approval please.

[Signature]

09/10/14

69. Member (Consumer Affairs)

[Signature]
09/10/14

70. Registrar

[Signature]
13/10/14

Dy. Registrar

CFs Issued on 12655-57 dt 13-10-14.

S. AD (CAD)

Member Consumer Affairs
Diary No. 2501
Date: 09-10-14
339/125 issue
9-10-14
2942
01-10-14

3423
14-10-14

12.06
30-9-14

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71. In pursuance to the Authority's decision vide RM 14-523 dated 9th August 2014 (F/A) regarding an Appeal filed by IESCO against the decision of NEPRA Tribunal in the matter of Al-Qaim Textile Mills Limited, a hearing was scheduled for 23rd September 2014; however, upon request of IESCO, the hearing was postponed and re-scheduled for 23rd October 2014.


72. The Authority vide Regulatory Meeting (Hearing) 14-689 dated 23rd October 2014 (PUC) decided as under:

The Authority, after hearing the arguments advanced by IESCO representatives and detailed deliberations thereupon, decided that IESCO has failed to provide any new evidence/ground for review of the decision of NEPRA Tribunal by the Authority. Further, the Complainant also has no objection in bearing losses beyond 3% till technical parameters of the feeder are improved; therefore, the Appeal filed by IESCO is declined. Draft order be submitted accordingly.


73. Foregoing in view, draft Order has been prepared (DFA) and the same is submitted for perusal/approval please.

Director (CAD)

(Danish Ali Shah)
Sr. Assistant Director (CAD)



11/12/14

74. For vetting please.


01/12/14

CA/CCP

75. Non-provision of new evidence may be a ground for dismissal of review, however, for appeal, the reasons need to be given for rejection. The draft needs to be updated accordingly.


5/12/14

Director (CAD) on tour.

76. DD - JAO


5/12/14

please submit final draft.

AD - CAD - I


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1457/3792-REV
01-12-14/05-12-14

M 150
1-12-14
05-12-14

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77. Ref paras 71-75/N on pre-page: the revised draft Order (DFA) w.r.t decision of the Authority regarding Appeal filed by IESCO against the decision of NEPRA Tribunal in the matter of Al-Qaim Textile Mills Limited is submitted for perusal/approval, please.


(Danish Ali Shah)
Sr. Assistant Director (CAD)
11/12/14

Director (CAD)

1698/3786/14
12-12-14/15-12-14

78. Amended draft is forwarded no discussed please.


12/12/14


LA(ULP)

Legal Officer
MISO
12-12-14

79. ~~with consent to the~~ We have incorporated structural changes in the draft. As regard the substance of the decision, the same is the finding based upon recommendation of Consumer Affairs Division.

12/12/2014

Director (CAD)
80.


15/12/14

AD(ULP)-I

Put up for draft please.

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81. In pursuance to the directions of the Authority vide RM 14-689 held on 23rd October 2014 (PUC) regarding an Appeal filed by IESCO in the matter of Al-Qaim Textile Mills Limited, the Order [duly vetted by Legal Advisor (LLP) at para 79/N] is placed below, and the same is submitted for perusal and onward submission to the Authority for signatures, in circulation, please.

17/13/3819 Rev
18/12/11/13/22/14

1737
22-12-14



(Danish Ali Shah)
Sr. Assistant Director (CAD)
15/12/14


~~Director (CAD)~~

82. In pursuance to the Authority's decision (PUC), Order duly vetted by Legal Advisor (LLP) is submitted for approval/signature of the Authority, please.


MEMBER (M & E)
Library No. 3857
Date: 16-12-14

~~Member (Consumer Affairs)~~



17/12/14


16/12/14


~~Member (M&E)~~


19.12.14

~~VC/Member (Licensing)~~


22/12/2014

~~DIR (CAD)~~


22/12/14

Registrar
By No. 11052
Dated: 22-12-14


MEMBER (LIC.)
Library No. 5283
Date: 22-12-14

~~Registrar (on tour)~~

Letters & decision of authority certified pursuant to Rule 16(4) & 22(2) of Tariff Rule.

Member (M & E)
Dy. No. 112
Date: 16/12/14

Order Issued no. 16644-46 dt. 23-12-14
Dir (CAD)


23/12