



National Electric Power Regulatory Authority
Islamic Republic of Pakistan

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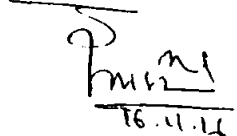
No. NEPRA/R/TCD.05(CAD)/ 15723-76
November 16, 2016

Chief Executive Officer
Lahore Electric Supply Company Limited (LESCO)
22-A, Queen's Road,
Lahore.

Subject: **DECISION OF THE AUTHORITY REGARDING MOTION FOR LEAVE FOR REVIEW FILED BY LAHORE ELECTRIC SUPPLY COMPANY LIMITED (LESCO) AGAINST THE DECISION OF MEMBER (CONSUMER AFFAIRS) IN THE MATTER OF COMPLAINT OF UMER SPINNING MILLS (PVT) LIMITED VS LESCO FOR NON-REFUND / ADJUSTMENT OF CASH SECURITY DEPOSIT AGAINST SUBMISSION OF BANK GUARANTEE**
Complaint # LESCO-142/2015

Ref: - Your letter No. No. 29232-34/COM/D&I/Security Deposits/047 dated June 30, 2016 regarding motion for leave for review.

Please find enclosed the decision of Authority in the subject matter for information and compliance within thirty (30) days of receipt of the decision.


16.11.16
(Syed Safer Hussain)

Copy to: -

1. C.E/Customer Service Director
Lahore Electric Supply Company Limited (LESCO)
22-A, Queen's Road, Lahore.
2. Manager (Commercial)
Lahore Electric Supply Company Limited (LESCO)
22-A, Queen's Road, Lahore.
3. RoaJavedWahab S/o Rao Abdul Wahab Khan
Manager, Administration, Umar Spinning Mills Pvt Limited
19-G, Gulberg-II, Lahore.



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

Lahore Electric Supply Company Limited **Petitioner**
22-A, Queen's Road, Lahore.

Versus

Umar Spinning Mills (Pvt) Limited, **Complainant**
19-G, Gulberg -II, Lahore.

Date of Hearing: October 06, 2016
 October 20, 2016

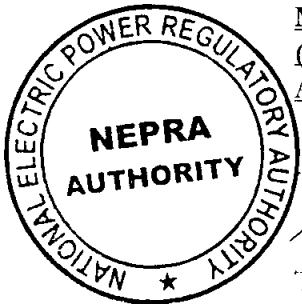
Present: 1). Brig (R) Tariq Saddozai Chairman
 2). Mr. Himayat Ullah Khan Vice Chairman
 3). Maj. (R) Haroon Rashid Member (Licensing)
 4). Syed Masood ul-Hassan Naqvi Member (Consumer Affairs)

On behalf of:

Petitioner: Mr. Furqan Naweed, Advocate

Complainant Rao Jawed, General Manager, Administration, Umar Spinning Mills (Pvt) Limited

Subject: Decision of the Authority Regarding Motion For Leave For Review Filed By Lahore Electric Supply Company Limited (LESCO) against the Decision of Member (Consumer Affairs) in the matter of Complaint of Umar Spinning Mills (Pvt) Limited VS LESCO For Non-Refund/Adjustment of Cash Security Deposit Against Submission of Bank Guarantee



DECISION

This decision shall dispose of the motion for leave for review dated June 30, 2016 filed by Lahore Electric Supply Company Limited (hereinafter referred to as the "LESCO" or the "Petitioner") against the decision of NEPRA dated June 13, 2016 in the matter of complaint filed by Umar Spinning Mills (Pvt) Limited, Lahore (hereinafter referred to as the "Complainant") under

Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "NEPRA Act").

2. Brief facts of the case are that the Complainant filed a complaint before the Authority wherein it was stated that it is a consumer of LESCO under B-3 tariff category. He deposited an amount of Rs. 42,68,000/- as a security. The Complainant added that the Authority inserted a new clause i.e. 5.2(e) in Consumer Service Manual (CSM) with respect to availing the option of bank guarantee by existing B-3 and B-4 consumers in lieu of cash security deposit. In this regard, he approached LESCO to avail the said facility but LESCO did not take any action on his grievances. Resultantly, he approached Honorable Lahore High Court and filed a writ petition No. 5911/2015. The same writ petition was disposed of through order dated June 16, 2015 with directions to LESCO to decide the pending application of the Complainant within 30 days. LESCO decided the same on October 28, 2015 against the provisions of CSM and rejected the request of the Complainant for acceptance of bank guarantee in lieu of cash security deposit. The Complainant prayed to the Authority that LESCO may be directed to refund the security deposit of Rs. 42,68,000/- along with compensation @ KIBOR plus 3% in lieu of submission of bank guarantee. The matter was taken up with LESCO for submission of para-wise comments. In response, LESCO vide its letter No. 2537/NEPRA/C-635 dated January 22, 2016 filed an unsatisfactory response. After providing ample opportunities of hearing to the parties, the case was examined in light of documents made so available by the parties, written/verbal arguments & applicable law. Accordingly, LESCO was directed vide decision of Member (Consumer Affairs) dated June 13, 2016 to accept the bank guarantee of the Complainant in lieu of cash security deposit after completion of all codal formalities and submit compliance report within thirty (30) days.

3. Being aggrieved with the decision of Member (Consumer Affairs), LESCO filed a motion for leave for review on June 30, 2016. The main contents of the review motion are as under:

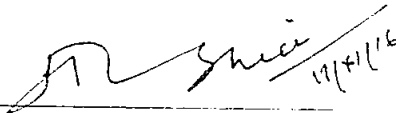
- a. LESCO considers the current security deposit rates as insufficient on account of being based on one month average consumption instead of 2.5 months as already requested to the Authority during various tariff petitions, and also on the ground that the rates have not been revised after November 2010 despite increases in tariff.
- b. LESCO has serious reservations on the option given by the Authority to the B-3 & B-4 consumers for submission of bank guarantee in lieu of Cash security deposits on the ground that its administration is difficult and the impact for industrial consumers will not be that of deterrence against potential default.
- c. LESCO has been repeatedly requesting the Authority to review the rates and policy of Security Deposits during the MYT Petition and the subsequent review motion. Unfortunately, the viewpoint of LESCO has not been given ample consideration so far.


4. The motion for leave for review was admitted on August 18, 2016. Accordingly, hearing in this regard was fixed for October 06, 2016 at NEPRA Head office, Islamabad. The representative of the Complainant appeared in the hearing and pleaded his case on the basis of earlier submissions, whereas LESCO vide letter dated October 05, 2016 informed that they have referred the case to their Legal Counsel and due to his engagements at Lahore, LESCO requested to reschedule the hearing. In order to provide an opportunity to LESCO, hearing was adjourned for October 20, 2016. The Legal

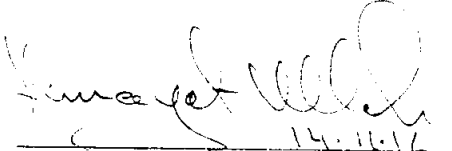



Counsel of LESCO appeared before the Authority and argued that he has filed *wakalatnama* and requested for adjournment of the hearing on October 20, 2016, and sought time to prepare the case which was refused by the Authority with an observation that already ample opportunity of hearing has been provided to LESCO, therefore there is no need to provide another opportunity. The rules and regulations are very clear in the matter. The option of Bank Guarantee to the industrial consumers (existing and prospective) under B-3 and B-4 categories in lieu of cash has been allowed in the security deposit determination of XWDISCOs. This option has also been incorporated in the CSM as clause 5.2(e), which is an applicable document. The version of LESCO with respect to non acceptance of bank guarantee in lieu of cash security deposit is misleading and is contrary to the determination/ provisions of the applicable document.

5. We have considered the motion for leave for review of the Petitioner. In terms of Regulation 3(2) of NEPRA (Review Procedure) Regulations, 2009, a motion seeking review of any order of the Authority is competent only upon discovery of new and important matter of evidence or on account of some mistake or error apparent on the face of record. The perusal of the decision sought to be reviewed clearly indicates that all material facts and representations made were examined in detail and there is neither any occasion to modify the impugned decision nor any error inviting indulgence as admissible in law has been pleaded out. Therefore, the Authority is convinced that the review would not result in the withdrawal or modification of the impugned decision. Hence, the motion for review is declined.


(Maj. (Rtd.) Haroon Rashid)
Member


(Syed Masood-ul-Hassan Naqvi)
Member


(Himayat Ullah Khan)
Vice Chairman


(Brig. (Retd.) Tariq Saddozai)
Chairman

