



Registrar

National Electric Power Regulatory Authority
Islamic Republic of Pakistan

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No. NEPRA/CAD/TCD.05/5005-07

April 11, 2017

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

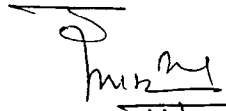
Subject: **Decision in the matter of Show Cause Notice issued to the Lahore Electric Supply Company Limited under Rule 4(7) of the National Electric Power Regulatory Authority (Fines) Rules, 2002 regarding Complaint of the Siara Textile Mills (Pvt.) Ltd. against LESCO**
[Complaint # LESCO-103/2014]

Reference is made to the following regarding the subject matter:

- i) Show Cause Notice issued to LESCO vide letter No. NEPRA/CAD/TCD-05/8662-63 dated June 9, 2016.
- ii) LESCO's reply submitted vide letter No. 314 dated July 14, 2016.
- iii) Hearing held on October 20, 2016 at NEPRA Headquarter, Islamabad.

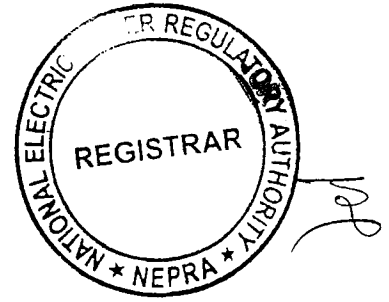
2. Please find enclosed herewith the Decision of the Authority in the subject matter for compliance within thirty (30) days of receipt of the Decision.

Encl: As above


11/04/17
(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.



BEFORE THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

Date of Hearing: October 20, 2016

On Behalf of LESCO: Mr. Furqan Naveed (Advocate)

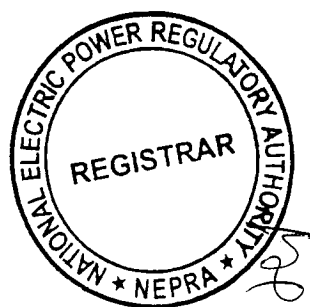
SUBJECT: DECISION IN THE MATTER OF SHOW CAUSE NOTICE ISSUED TO THE LAHORE ELECTRIC SUPPLY COMPANY LIMITED UNDER RULE 4(7) OF THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY (FINES) RULES, 2002, REGARDING COMPLAINT OF THE SIARA TEXTILE MILLS (PVT) LIMITED AGAINST LESCO

DECISION

- 1) This Decision shall dispose of the matter of show cause notice issued to the Lahore Electric Supply Company Limited (hereinafter referred to as "LESCO") under rule 4(7) of the National Electric Power Regulatory Authority (Fines) Rules, 2002 (hereinafter referred to as the "**Fines Rules**").
- 2) Brief facts of the case are that Siara Textile Mills (Pvt) Limited, 605-C, Faisal Town, Lahore (hereinafter referred to as the "**Complainant**") filed a complaint against LESCO under section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "**NEPRA Act**"). The complaint stipulated that the Complainant is a consumer of LESCO under tariff B-3 with a sanctioned load of 2700 kW fed through an independent 11 kV feeder. In 2013, the Complainant applied to LESCO for extension of load from 2700 kW to 3500 kW, which was granted on January 09, 2014. Consequent to the extension of load, a requirement surfaced for either upgradation of existing 11 kV independent feeder, construction of a new feeder or utilization of any spare dedicated distribution system (DDS) in the area, if available, by the Complainant. The Complainant opted for the 3rd option, whereby it acquired ownership of a spare 11 kV feeder from Blessed Textile Mills (Sapphire Textile Mills), which had converted to tariff B-4 at 132 kV supply.

- 3) When LESCO was informed of acquisition of the Blessed feeder, it issued a demand notice of Rs. 4.8 million to the Complainant on current rates for erecting the existing 11 kV Blessed feeder.
- 4) The Complainant proceeded to file a complaint against LESCO with the National Electric Power Regulatory Authority (hereinafter referred to as "NERPA" or the "Authority") under section 39 of the NEPRA Act. After receiving written comments from both parties and conducting hearings on October 22, 2014, January 12, 2015, February 23, 2015 and June 19, 2015, in accordance with the NEPRA (Complaint Handling and Dispute Resolution Procedure) Rules, the complaint was disposed of by the Member (Consumer Affairs) through order dated September 15, 2015, wherein LESCO was directed to:-
- (i) Withdraw store charges and installation charges amounting to Rs. 569,232/- charged to Siara Textile Mill (Pvt) Limited against the already installed/used feeder,
 - (ii) Provide compensation to Siara Textile Mill (Pvt) Limited and Sapphire Textile Mills for their spared feeders as per the provisions of Consumer Eligibility Criteria, 2003,
 - (iii) Submit compliance report within 30 days.
- 5) The preceding decision of the Authority was communicated to LESCO vide NEPRA's letter No. NEPRA/R/CAD/TCD/13801-04 dated September 16, 2015, for necessary action and submission of compliance report within 30 days. Upon non-receipt of compliance report, a reminder was issued to LESCO on October 19, 2015, wherein LESCO was directed to expedite submission of compliance report without further delay. LESCO persisted in its non-compliance with the Authority's order.
- 6) Accordingly, a final reminder was issued on December 03, 2015, wherein LESCO was again directed to submit compliance report without further delay. In response thereof, LESCO vide its letter No.47203/NEPRA/C-467, dated December 14, 2015, informed the Authority that the matter had been put up to the competent authority for further proceeding, which was still awaited, and once a decision was made, the same would be communicated to NEPRA.
- 7) After a significant lapse of time, and receiving no further response from LESCO on the matter, an explanation letter was issued to LESCO on February 04, 2016, under Rule 4(1) and 4(2) of the Fines Rules, for non-compliance of the orders of NEPRA. The explanation letter is reproduced in whole below:-

Quote:



"Subject: EXPLANATION UNDER RULE 4 (1) & (2) OF THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY (FINES) RULES, 2002

1. WHEREAS the National Electric Power Regulatory Authority (hereinafter referred to as the Authority) is established under Section 3 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the Act).

2. AND WHEREAS, the Authority granted distribution license to Lahore Electric Supply Company Limited (LESCO) to engage in distribution business vide licence No. 03/DL/2002, and being a licensee, it is required to follow the provisions of the Act, rules, regulations and applicable documents made there-under.

3. AND WHEREAS, any interested person, including a Provincial Government, may file a written complaint with the Authority against a licensee for contravention of any provision of the Act, any order, rule, regulation or instruction made or issued there-under.

4. AND WHEREAS, the Authority received a complaint from M/s Siara Textile Mills (Pvt) Ltd, Warberton Road, Ferozewatwan, Sheikhupura against LESCO regarding extension of load and dedicated feeder. The complaint was processed and report was sought from LESCO. Few hearings were also conducted and parties were provided with various opportunities to present their case.

5. AND WHEREAS, the said complaint was decided by NEPRA vide decision dated September 15, 2015 wherein LESCO was directed as under:-

- i. To withdraw store charges and installation charges amounting to Rs. 5,69,232/- charged to M/s Siara Textile Mills against the already installed/used feeder.
- i. To provide compensation to M/s Siara Textile Mills and M/s Sapphire Textile Mills for their spared feeders as per the provisions of NEPRA Consumer Eligibility Criteria, 2003.

6. AND WHEREAS, the above decision of NEPRA was forwarded to LESCO vide NEPRA's letter No. NEPRA/CAD/TCD/13801-04 dated September 16, 2015 for necessary action and submission of compliance report within 30 days. Upon non receipt of compliance report from LESCO, a reminder was issued to LESCO vide NEPRA's letter No. TCD 05/6187-2015 dated October 19, 2015 wherein LESCO was directed to expedite submission of report without further delay, however LESCO failed to submit the report. Accordingly, a final reminder was issued to LESCO vide NEPRA's letter No. TCD 05/7095-2016 dated December 03, 2015 wherein LESCO was again directed to submit compliance report without further delay.

7. AND WHEREAS, LESCO vide its letter No.47203/NEPRA/C-467 dated December 14, 2015 informed that the matter has been put up to the competent authority for further proceeding which is still awaited; once the decision is received, the same will be communicated to NEPRA.

8. AND WHEREAS, by omitting to comply with the orders and directions of the Authority, LESCO is not only violating the provisions of the Act but such non-compliance results in hindrance for the Authority to perform its functions under the Act.

9. NOW THEREFORE, you are hereby called upon, under Rule 4 (1) & (2) of the NEPRA (Fines) Rules, 2002 to either admit or deny occurrence of the violations of the provisions of the Act and applicable documents. If your response is not received within fifteen (15) days of receipt of this notice, then it will be presumed that you have nothing to say in your defense."

- 8) The explanation letter demanded admission or denial of the occurrence of violation of the provisions of the NEPRA Act, due to non-compliance of an order of the Authority, to be provided within fifteen (15) days of receipt of the letter. LESCO submitted its response vide letter dated March 29, 2016, i.e. after expiry of the stipulated time. The substantive part of LESCO's response is reproduced below:-

Quote:

"2. It is submitted at the outset that LESCO denies violating any of the provisions of the 'Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997.' (the "NEPRA Act") and that the Notice, in light of the language, scope and meaning of Rules 4(1) & (2) of the National Electric Power Regulatory Authority (Fines) Rules, 2002 is unwarranted and liable to be withdraw.

5. It is a matter of fact and record that Sapphire "did not opt for any compensation for their 11kV feeder from LESCO". Consequently, with respect to compensation due to Sapphire on account of LESCO's retention of Sapphire's feeder, the said matter has already been settled and resolved inter se Sapphire and LESCO. NEPRA's observations with respect thereto, have been duly complied with by LESCO. It is further submitted that LESCO has not exercised its right to retain feeder previously utilized by Siara. It shall however, upon exercise of its right to retain the said Feeder, duly compensate Siara. In light thereof, it is humbly submitted that with respect to the issue of compensation due to Siara and Sapphire from LESCO, LESCO has not violated any provisions of the Act.

6. With respect to the legality and veracity of charges which were contractually agreed between Siara and LESCO prior to filing the Complaint, NEPRA was pleased to observe as follows -

' v. If the complainant had any observation over the costs of the feeder he should have not paid demand notice(s) and should have approached some appropriate forum, whereas in the instant case, the Complainant paid the charges demanded by LESCO and after energization of his feeder, he filed complaint which has not legal justification' [emphasis added]

' vii. LESCO charged cost of feeder which was agreed and paid by the Complainant without any hesitation, as it was in the interest of the Complainant' [emphasis added]

NEPRA therefore rejected Siara's objection against the quantum and basis of costs for the Feeder, as having no legal justification (and has) also endorsed LESCO's legal right to charge such rates and charges as mutually agreed between the parties.

8. In light thereof, LESCO denies the occurrence of violations of the provisions of the Act and/or the applicable rule & regulations and laws. Consequently, it is submitted that the Notice is liable to be withdrawn."

Unquote

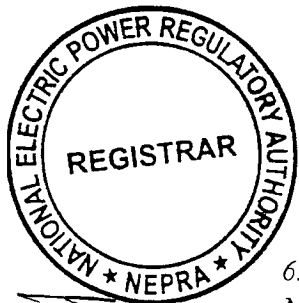
- 9) In its response, LESCO denied occurrence of any violation of the provisions of the NEPRA Act stipulated in the explanation letter. The response was examined by the Authority and found to be unsatisfactory and that the concerned violation of the NEPRA Act has in fact occurred

The Authority proceeded to issue a Show Cause Notice to LESCO on June 09, 2016 under Rule 4(8) & (9) of the Fines Rules, with response required within fifteen (15) days. The Show Cause Notice is reproduced in whole below –

Quote:

“Subject: SHOW CAUSE NOTICE UNDER RULE 4 (8) & (9) OF THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY (FINES) RULES, 2002”

1. WHEREAS the National Electric Power Regulatory Authority (hereinafter referred to as the “Authority” or “NEPRA”) is established under Section 3 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the “Act”).
2. AND WHEREAS, the Authority granted distribution license No. 03/DL/2002 dated April 01, 2002 to Lahore Electric Supply Company Limited (LESCO) to engage in distribution business and being a licensee, it is required to follow the provisions of the Act, rules and regulations made there under and applicable documents.
3. AND WHEREAS, under Section 39 of the Act, any interested person, including a Provincial Government, may file a written complaint with the Authority against a licensee for contravention of any provision of the Act, any order, rule, regulation or instruction made or issued there-under.
4. AND WHEREAS, the Authority received a complaint from Siara Textile Mills (Pvt) Ltd, Warberton Road, Ferozewatwan, Sheikhpura (Complainant) against LESCO regarding charging cost of a dedicated feeder upon extension of load.
5. AND WHEREAS, the Authority, after submission of written comments by both the parties, production of documentary evidence and arguments advanced during the hearings has adjudicated the complaint through an order dated September 15, 2015 wherein LESCO was directed as under:
 - i. To withdraw store charges and installation charges amounting to Rs.5,69,232/- charged to the Complainant against the already installed / used feeder.
 - ii. To provide compensation to Siara Textile Mills and Sapphire Textile Mills Limited for their spared feeders as per the provisions of NEPRA Consumer Eligibility Criteria, 2003.
6. AND WHEREAS, the above decision was forwarded to LESCO vide Letter No. NEPRA/CAD/TCD/13801-04 dated September 16, 2015 for necessary action and submission of compliance report within 30 days. Upon non receipt of compliance report, a reminder was issued to LESCO vide letter No. TCD-05/6187-2015, dated October 19, 2015 wherein it was directed to expedite submission of report without further delay; however LESCO failed to submit the required report. Accordingly, a final reminder was issued vide NEPRA’s letter No. TCD/05/7095-2015 dated December 03, 2015 wherein LESCO was again directed to submit compliance report without further delay.
7. AND WHEREAS, LESCO vide letter No. 47203/NEPRA/C-467 dated December 14, 2015 informed that the matter has been put up to the competent authority for further proceeding which is still awaited, and once the decision is received, the same will be communicated to the Authority, however, no repose was received from LESCO even after lapse of months



8. *AND WHEREAS, due to non compliance of orders and directions of the Authority; LESCO is in violation of the provision of the Act and such omissions create impediment in dispensation of the regulatory functions of the Authority.*

9. *AND WHEREAS, on the basis of non compliance of the orders of the Authority, you were served an explanation under Rule 4(1) & (2) of NEPRA (Fines) Rules 2002 vide letter No. NEPRA/CAD/TCD-05/1816-17 dated February 04, 2016 to either admit or deny the occurrence of the violations of the provisions of the Act and applicable documents within a period of fifteen (15) days of receipt of the notice.*

10. *AND WHEREAS, LESCO vide its letter dated March 29, 2016 submitted its response after the expiry of the stipulated time and denied the occurrence of any violations mentioned in the explanation letter.*

11. *AND WHEREAS, the Authority examined the submissions of LESCO and did not find the same appropriate and rejected the explanation provided by LESCO as per Rule 4(7) of the NEPRA (Fines) Rules, 2002. Accordingly, the Authority has directed the undersigned to issue the instant show cause notice to LESCO.*

12. *AND WHEREAS, you are hereby served a show cause notice under Rule 4 (8) & (9) of NEPRA (Fines) Rules, 2002 as to why not a fine upto Rupees One Hundred Million (Rs.100,000,000/-) be imposed upon LESCO for violation of directions of the Authority and applicable documents. If no response to this show cause notice is received within fifteen (15) days of receipt of this notice, then it will be presumed that LESCO has nothing to say in its defense and the Authority will proceed accordingly.*

Unquote

After lapse of a month's time, LESCO submitted its response wherein it denied any violation of the provisions of the Act and requested an opportunity of hearing, vide letter dated July 14, 2016. The Authority considered LESCO's request and fixed a hearing for August 25, 2016. The hearing was postponed twice on request of LESCO and was finally held on October 20, 2016.

11) Legal counsel appearing on behalf of LESCO contended that in terms of the relevant rules, the Authority is required to record reasons of rejection of the reply of the explanation letter earlier served to LESCO. In the present case, the show cause notice had been issued without communicating the reasons of rejection of the reply submitted in the context of the explanation letter.

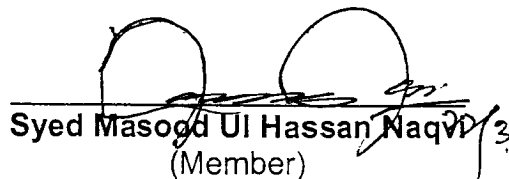
12) This case has been examined in detail in light of the relevant documents, arguments advanced during the hearing and the applicable law. The following has been observed/concluded –

(i) LESCO admittedly failed to submit compliance report in response to the decision of Member (Consumer Affairs) dated September 15, 2015.

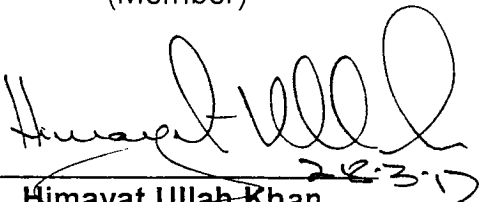
- (ii) LESCO failed to prefer any appeal or motion for leave for review against the decision of Member (Consumer Affairs). As such, the said decision attained finality and its implementation is obligatory on LESCO.
- (iii) LESCO, in its response to the explanation letter, had no plausible reasons to deny the occurrence of violations of the directions and failed to comply with the orders of the Authority in said response. Further, LESCO failed to submit response to the explanation letter issued on February 04, 2016 within the stipulated time.
- (iv) LESCO failed to submit response to the show cause notice issued on June 09, 2016 within the stipulated time.
- (v) LESCO failed to satisfy the Authority about non-compliance of the decision of the Member (Consumer Affairs) in its true letter and spirit. In fact, LESCO has violated the directions contained in the said decision.
- 13) In consideration of the above, the Authority rejects the LESCO's response to the Show Cause Notice and declares the same as delinquent, under Rule 4(13) of the Fines Rules.
- 14) The Authority hereby imposes a fine upon LESCO amounting to Rupees One Hundred Thousand only (Rs. 100,000/-).



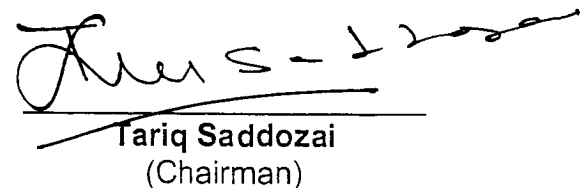
Maj (R) Haroon Rashid
(Member)



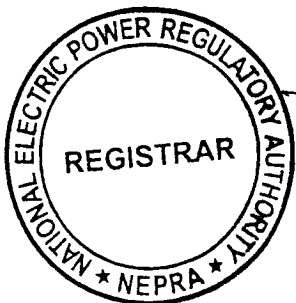
Syed Masood Ul Hassan Naqvi
(Member)

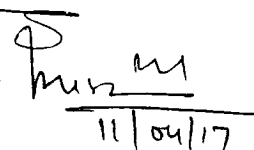


Himayat Ullah Khan
(Vice Chairman)



Tariq Saddozai
(Chairman)




11/04/17