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National Electric Power Regulatory Authority

Islamic Republic of Pakistan

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Registrar

No. NEPRA/TCD 05 / 5630 - 32

June 20, 2012

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

Subject: **COMPLAINT FILED BY LT. COL. RIZWAN AKRAM AGAINST LESCO UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 REGARDING OVER BILLING**
Complaint # LESCO-175-2011

Please find enclosed herewith the Decision of Acting Chairman / Member (Consumer Affairs) on the subject matter for compliance within 30 days of the receipt of this Decision.

Encl: As above

Sd/-
(Syed Safer Hussain)

Copy to:-

1. C.E./Customer Services Director,
Lahore Electric Supply Company (LESCO)
22-A, Queen's Road
Lahore.
2. Lt. Col. Rizwan Akram,
Commander MES (Army)
Okara Cantt.

DD (CAD)
W
22/06/12

No. NEPRA/TCD 05 / 5633

Forwarded for information, please.

Senior Advisor (CAD) [w.r.t. Dy. No. 594 dated 19.06.2012]

W
22/06/12

June 20, 2012

W
Registrar

CC:

1. Acting Chairman

W (CAD) 11/12

Decision
4/50
22/06/12



(19)

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

Complaint No: LESCO-175-2011

Lt (Col) Rizwan Akram, Commander (MES Okara) Complainant

Versus

Lahore Electric Supply Company (LESCO) Respondent

Date of Decision: June 18, 2012

On behalf of:

Complainant

- 1) Lt.Col. Rizwan Akram (CMES-Okara)
- 2) A/XEN Mr Babar Pervez

Respondent:

- 1) Wahid Hameed, (Manager Commercial LESCO)
- 2) Muhammad Akram, (AMCS LESCO)
- 3) Mr M. Aslam Sabir, (DMO LESCO)

Present:

Mr.Ghiasuddin Ahmed Acting Chairman/Member (CA)

Subject: **IN THE MATTER OF COMPLAINT FILED BY LT.COL RIZWAN AKRAM UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST LESCO FOR OVER BILLING**

DECISION

1. This decision shall dispose of the complaint dated October 13, 2011 filed by Lt.Col Rizwan Akram against Lahore Electric Supply Company (hereinafter referred to as the respondent or LESCO) filed under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997. In the complaint it was stated that LESCO installed an electricity connection at Okara Cantt under tariff category C-2. As per instructions of NEPRA, tariff rates of peak and off peak hours are applicable to the said connection from Feb, 2007 but LESCO has applied only peak hour rates from Feb, 2007 to Jan, 2011 despite installation of TOU meter. Such wrong application of tariff resulted in loss of Rs.95.262 Million to MES Okara. When LESCO was approached for correction of bill, LESCO refused to accept their justified claim. The complainant also quoted that in one of their electricity connections for satellite station at Bwn Cantt under the jurisdiction of MEPCO, the tariff has been changed to TOU tariff by MEPCO at its own. The complainant requested that LESCO be directed to pass the necessary adjustment in the electricity bill.

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2. After initial scrutiny of the complaint, the case was referred to LESCO for submission of report. In response LESCO vide its letter dated December 12, 2011 informed that the meter of the consumer was changed on January 8, 2002 and TOU meter was installed as per availability and there was no TOU tariff existing at that time for C-2 consumers. The billing was done under tariff C-2 according to the readings at the site and bills were paid by the consumer accordingly and the bill was never challenged by the consumer on account of difference of tariff. TOU tariff was introduced on February 24, 2007 but it was not mandatory for C-2 tariff. Later on various tariff notifications were also introduced but TOU tariff was optional for C-2 tariff from 24-2-2007 to 12-11-2010. During this period, the copy of tariff was also collected by the representative of MES and every bill was paid by them after reconciliation. Reconciliation up to November 2008 was also carried out by LESCO and GE (SVCS) Okara Cantt. The request for converting the billing on TOU tariff from MES was received on December 29, 2010 vide GE Army Okara Cantt letter No 4004/139/E-4 dated December 28, 2010 and was sent to the Chief Executive Officer LESCO for necessary action. The tariff was converted from C-2 (a) to C-2 (b) in January 2011 after getting approval from the competent authority. The consumer was billed according to the tariff applicable which was also paid as no extra amount had ever been charged.

3. The report of LESCO was sent to the complainant for rejoinder. In response the complainant made his observations vide letter No 4011/113/E-4 dated December 30, 2011 and submitted as under:-

"As per statement of LESCO, the application of TOU tariff was optional and it was not mandatory. This office does not agree with the statement of LESCO because the pre-requisite for application of peak and off-peak hour rates was installation of TOU meter and TOU meter was already installed by WAPDA/LESCO on January 8, 2002. Therefore, option to go for peak and off-peak hour rates was exercised instantaneously the moment TOU meter was installed. Provision of peak and off-peak hour rates were introduced by Govt of Pakistan/ NEPRA to manage peak load during specified peak timings. Okara Garrison made concrete efforts to economize peak hours load therefore the incentive defined in terms of off-peak hours rates should have been given to Okara Garrison. Whereas, only peak hours rates were applied by LESCO resulting into loss of approximately Rs 95 million. Moreover, Govt of Pakistan notification and NEPRA instruction on peak and off-peak hours rates were never shared by LESCO with Okara Garrison. Therefore, staff of this office did not challenge it in the past primarily because of ignorance about tariffs and special conditions specified in Govt of Pakistan notification / NEPRA instructions. It is important to mention here that these instructions with detail of tariffs were revealed to this office through use of internet and not through LESCO. Therefore, it is recommended that all notifications related to change in tariffs be shared with this office in future".

4. To probe further into the matter, both the parties were called for a hearing on 09.02.2012. In the hearing both the parties i.e. the complainant and LESCO participated and presented their point of view as under:-

i) The complainant

TOU meter was installed at their premises since 2002 and the meter was installed with their consent by LESCO and motive behind this was to check the consumption pattern in a day. In its tariff determination of 2004 NEPRA made it mandatory that rates of peak and off-peak hours will be applicable from June, 2007 but LESCO did not change their tariff on TOU tariff after June, 2007 and continued billing on non TOU tariff till it was changed in January, 2011 when they approached LESCO in December, 2010. On a query, the complainant informed that if application of TOU tariff was optional for C-2 consumer then it was obligatory for LESCO to inform them regarding this but LESCO never did so due to which they sustained loss of Rs.95.262 million. The complainant further informed that in some other connections of MES the MEPCO has changed the tariff from Non-TOU to TOU at their own without any request by MES; for such change.

ii) LESCO

TOU meter was installed at the premises of the complainant in 2002 being protection of a latest technology and there was no purpose other than that. The tariff determination of NEPRA 2004 was first time notified in February 2007. As per their determination the installation of TOU meter was optional for C-2 type of consumers. In its determination of 2007, NEPRA held that the existing consumer governed under C-2 tariff shall be provided with TOU meters by June 30, 2008 and in this determination there was nothing regarding change of tariff. In every determination after 2007, the installation of TOU meters for C type of consumers was optional but in the determination of March, 2011 the word "option" was removed. The tariff determined by NEPRA is approved by the federal government and it becomes a public document whenever notified and is available at the website. It was the duty of consumer to approach LESCO for change of tariff being optional. When the request was made by the consumer to LESCO in December, 2010 the tariff from C-2 (a) to C-2 (b) was changed in January, 2011 with the approval of competent authority. LESCO's representatives further submitted that they had verbally informed the consumer for exercising the option of TOU tariff while reconciling their bills for payment in 2008 but MES Okara did not exercise the option.

5. The case was further analyzed in detail, and it was decided that both the parties be given another opportunity of hearing so as to arrive at a judicious decision. Accordingly, another hearing was held on March 04, 2012. During the hearing both the parties argued their case and submitted as under:-

i) The complainant

The complainant, MES Okara reiterated its previous written and verbal arguments. Additionally the complainant produced a letter of LESCO dated January 08, 2011 and submitted that in this letter, LESCO had accepted its fault and Mr Khalid Mahmood CSD LESCO had given directions to Manager (Operation) LESCO Okara Circle that "As per recommendations made by you, the error committed in billing regarding peak and off peak readings be rectified as per approved tariff. Also ensure that accurate billing is done in future"

ii) LESCO

Similarly the LESCO's representative (s) repeated their earlier written and oral version. The LESCO's representative (s) further submitted that the complainant was provided a copy of tariff vide LESCO's letter No.1793 dated January 08, 2008, therefore it is not correct that they were not aware about the option w.r.t TOU tariff. They should have approached LESCO upon receipt of copy of tariff for change to TOU tariff. The LESCO representatives further submitted that the letter referred by the complainant of LESCO dated Jan 8, 2011 was issued regarding correction with respect to peak and off peak readings and the same has no link with the instant issue.

6. LESCO is of the view that the TOU tariff was optional for C-2 consumers till 2011. As and when the complainant requested LESCO, the tariff of complainant was changed from C-2 (a) to C-2 (b). The consumer is of view that if tariff was optional then LESCO should have informed them to exercise the option which was not done.
7. The facts remain that in the tariff determination for 2007 & 2008, the TOU tariff C-2(b) was optional for C-2 type consumer. However, in the tariff determination of 11-2009 the option for TOU tariff was withdrawn, thereby making tariff C-2(b) mandatory for C-2 type consumers where TOU meters were installed.

8. I have examined the record produced by both parties and carefully analyzed the arguments advanced by them in support of their claim. The complainant, MES Okara is not an ordinary consumer who could claim ignorance for the tariff determined by Authority from time to time and notified by Government of Pakistan. Being a responsible organization, MES Okara was obligated to exercise its option from non TOU to TOU tariff as provided in the schedule of tariff. There is no force in the arguments of MES Okara that due to lack of knowledge they could not avail the option. In the tariff determination by Authority for LESCO for the year 2009 which was notified by GOP on 10-11-2009, the right of option was withdrawn thereby making the TOU tariff mandatory for C-2 consumers. The LESCO was obligated to change the tariff of complainant from non TOU C-2 (a) to TOU C-2 (b) in pursuance of the notified tariff.
9. Forgoing in view, LESCO is hereby directed to treat and convert the tariff of the MES Okara from non TOU C-2 (a) to TOU C-2 (b) w.e.f 10-11-2009. Excess amount charged (if any) from MES Okara as a result of this tariff change be worked out by LESCO and adjusted in the future bills of MES Okara.


(Ghiasuddin Ahmed)
Member (Consumer Affairs)