



National Electric Power Regulatory Authority
Islamic Republic of Pakistan

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**OFFICE OF THE
REGISTRAR**

No. NEPRA/D(CAD)/TCD-07/769-71

January 21, 2016

Chief Executive Officer,
Hyderabad Electric Supply Company (HESCO)
WAPDA Water Wing Complex, Hussainabad,
Hyderabad.

Subject: **DECISION IN THE MATTER OF COMPLAINT FILED BY M/S KHAS
TEXTILE MILLS (PVT) LIMITED UNDER SECTION 39 OF THE
REGULATION OF GENERATION, TRANSMISSION AND
DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST HESCO
REGARDING FIXED CHARGES / CROSS SUBSIDY AND REFUND OF
SECURITY DEPOSIT**
COMPLAINT NO. HESCO-153/2013

Please find enclosed herewith the decision of NEPRA regarding the subject matter for necessary action and compliance within thirty (30) days.

Encl: As above


(Iftikhar Ali Khan)
Deputy Registrar

Copy to:

C.E./Customer Service Director,
Hyderabad Electric Supply Company (HESCO)
WAPDA Water Wing Complex, Hussainabad
Hyderabad

M/s Khas Textile Mills (Pvt Limited)
Khas House, K-2/3,2/4,2/5,
Choudhry Khaliq-uz-Zaman Road
Main Gizri, Karachi



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

Complaint No. HESCO-153/2013

M/S Khas Textile Mills Pvt. Ltd.,
Khas House, K-2/3, 2/4, 2/5,
Choudhry Khaliq uz Zaman Road, Main Gizri
Karachi.

.....
Complainant

Versus

Hyderabad Electric Supply Company,
WAPDA Water Wing Complex,
Hussainabad, Hyderabad.

.....
Respondent

Date of Hearings: February 18, 2014
July 22, 2015
November 19, 2015

Date of Decision: January 20, 2016

**On behalf of
Complainant:** Mr. Muhammad Idrees (Admin Manager)

Respondent: 1) Mr. Manzoor Ahmed Shaikh (CSD)
2) Mr. Abdul Hameed Shaikh, M(TM& CM)
3) Mr. Muhammad Farooq (Superintending Engineer)
4) Mr. Syed Ishrat Ali, (DCM)
5) Mr. Rashid Ahmed Ansari (XEN, Kotri)

Subject: **DECISION IN THE MATTER OF COMPLAINT FILED BY M/S KHAS TEXTILE MILLS PVT. LTD. UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST HESCO REGARDING FIXED CHARGES/CROSS SUBSIDY & REFUND OF SECURITY DEPOSIT**

DECISION

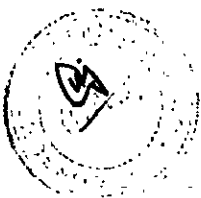
1. This decision shall dispose of the complaint dated September 27, 2013 filed by M/s Khas Textile Mills Pvt. Limited, Hyderabad (hereinafter referred to as the "Complainant") under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 against Hyderabad Electric Supply Company (hereinafter referred to as the "Respondent" or "HESCO").
2. The Complainant in its complaint stated that in the year 2004, they switched over to self generation and their power supply was disconnected by HESCO. HESCO also removed the sub-station, meter and other installations in April/May, 2004. HESCO did not return the security deposit which was required to be returned as per the law. Upon approaching HESCO, they were

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informed that there is outstanding liability due to which refund claim of security deposit could not be acceded to. The Complainant added that in the month of July, 2004 HESCO issued bill amounting to Rs.2,18,565/- which was paid on July 26, 2004. Further, since 2004 and after removal of meter and other electric equipments, HESCO did not issue any bill on consumption basis and there were no outstanding dues against them. On March 28, 2013, HESCO served upon them a copy of the public notice issued by National Accountability Bureau (NAB) which was responded vide their letter dated March 30, 2013. A notice was served upon them by NAB authorities on April 8, 2013 for payment of Rs.65,52,320/- to HESCO as fixed charges. The Complainant filed writ petition before Sindh High Court. The Honorable Court disposed of the petition vide its Order dated November 10, 2014 with directions that in case of any claim/counter claim or settlement of the accounts, the parties may approach proper forum for redressal of their grievances. The Complainant prayed that HESCO be directed to refund the security deposit and refrain from taking steps for recovery of impugned amount.

3. The case was taken up with HESCO for submission of para-wise comments. In response, HESCO vide its letter dated December 6, 2013 reported that the Complainant had applied for disconnection of electricity supply in the month of September, 2004. The Complainant filed case in the Honorable Sindh High Court vide C.P.D No. 325/2004 against HESCO regarding payment of dues. The Honorable Sindh High Court disposed of the C.P.D No. 325/2004 and directed the parties to approach proper forum for redressal of their grievances, if so desired. Therefore the matter was referred to Board of Directors (BOD) of HESCO for adjudication of the matter. Accordingly, in light of the decision of BOD, the Complainant applied for reduction of load and their load was reduced from 1000 kW to 500 kW with effect from July 01, 2005. Bills were issued up to October, 2010, but the same were not paid by the Complainant which resulted in accumulation of dues amounting to Rs.65,52,320/-. The supply was disconnected in the month of November, 2010 due to non-payment of outstanding dues.
4. In order to probe further into the matter, a hearing was held on January 24, 2014 at Karachi which was rescheduled on request of Legal Counsel of the Complainant for February 18, 2014 at NEPRA Head Office, Islamabad. The said hearing was attended by representatives of both the parties who advanced their arguments on the basis of their earlier versions. Subsequent to the hearing, some additional information was sought from HESCO with respect to provision of copies of the decision of High Court, application of the Complainant for reduction of load, copy of disconnection notice, application of the Complainant for switching over to self generation, reasons for delay in disconnection of electricity supply etc. In response, HESCO submitted partial information/documents vide its letter dated April 07, 2014. Furthermore, with regards to delay in disconnection of electricity supply, HESCO replied that the connection was not disconnected with the hope that the consumer having good reputation would pay the dues, however, billing continued against reduced load. The consumer did not meet the expectations, so temporary disconnection was made and further billing was stopped with effect from November 2010 with outstanding dues amounting to Rs. 65,52,320/-.
5. Meanwhile, the Complainant requested for scheduling a hearing in the matter and provided a copy of the Orders of Honorable Sindh High Court in Writ Petition No. 1540/2013 dated November 10, 2014 titled as "Khas Textile Mills (Pvt.) Ltd. vs NAB and HESCO" whereby the Honorable Court held that "the instant petition has achieved its purpose and is accordingly disposed of. However, in case of any claim/counter claim or settlement of accounts, parties may approach proper forum for redressal of their grievances, if so desired". Accordingly, another hearing was held on July 22, 2015 at HESCO Head office, Hyderabad. The hearing was attended by both the parties wherein they advanced their respective arguments based upon their earlier versions. Subsequent to the hearing, some additional information was sought from HESCO with respect to application of the Complainant for disconnection of electricity supply, confirmation of disconnection of electricity supply with effect from April/May 2004, reasons of delay in implementation of Equipment Removal Order (ERO), documents with respect to reduction of load, billing statement with effect from January, 2004 to December, 2010 etc. In response, HESCO vide its letter dated September 04, 2015 submitted the requisite information and informed that no application of the Complainant regarding disconnection has been found in their record. HESCO further reported that no material had been removed from site and the connection was temporarily disconnected. Further, as per request of Nooriabad Trade and Industry Association, ERO was not implemented and reduction of load was allowed to all



consumers who switched over to self generation and intended to keep industrial connection of HESCO as standby. The Complainant had also applied for reduction of load from 898 kW to 500 kW with the intention to keep HESCO's connection on standby.

6. Another hearing was held on November 19, 2015 at NEPRA Regional Office, Karachi. The hearing was attended by both the parties who advanced arguments on the basis of their earlier versions. The Complainant stressed that since the year, 2004, not a single unit of electricity has been utilized from HESCO system, therefore claim of HESCO for payment of bills up to October, 2010 is unjustified. On a query regarding submission of application for reduction of load in case of non-usage of the electricity supply, the Complainant informed that fixed charges were continuously being raised by HESCO despite non availability of electricity supply at the premises, therefore, they had no other option but to apply for reduction of load. Moreover, the Complainant also requested that they have applied to HESCO for a new connection but HESCO is not providing the same and has linked it with clearance of previous/outstanding dues.
7. The case has been analyzed in detail in light of documents made so available by the parties, arguments advanced during the hearings and applicable law. Following has been concluded:
 - i. The Complainant was an industrial consumer of HESCO under tariff category B-3 having sanctioned load of 898 kW. In the month of September 2004, the Complainant switched over to self generation. No document in this regard was placed on record by any party with respect to intimation by the Complainant to HESCO for switching over to self generation however, HESCO in its report dated December 06, 2013 has admitted that the Complainant had applied for disconnection of electricity supply in the month of September 2004. As per version of the Complainant, HESCO disconnected their connection in the month of April/May 2004 and issued final bill amounting to Rs.2,18,565/- in the month of July 2004 which was paid by them on July 26, 2004.
 - ii. As per version of the Complainant, upon switching over to self generation, they requested HESCO for refund of security deposit. In response, the Complainant was informed by HESCO that there are outstanding arrears against them, due to which refund claim cannot be acceded to.
 - iii. As per report of HESCO, the Complainant filed a case in the Honorable Sindh High Court vide CP.D No 325/2004 against HESCO regarding payment of dues. The Honorable Sindh High Court referred the case to BOD of HESCO to decide the matter. As per decision of BOD, the Complainant applied for reduction of load, whereas, scrutiny of the record reveals that no case was filed by the Complainant before Honorable Sindh High Court and no case pertaining to the Complainant was referred by the Court to HESCO's BOD for reduction of load. As such, the report of HESCO was not correct. This fact was also confirmed by the representatives of HESCO during the hearing.
 - iv. It is worth mentioning here that in March 2013, National Accountability Bureau (NAB) issued notices to electricity defaulters and in this regard, a notice was also issued to the Complainant. The Complainant filed writ petition before Sindh High Court and also approached NEPRA for redressal of his issue. The Honorable Court disposed of the petition vide its Order dated November 10, 2014 with directions that in case of any claim/counter claim or settlement of the accounts, the parties may approach proper forum for redressal of their grievances. Accordingly, the Complainant requested NEPRA for redressal of their grievances.
 - v. The billing record provided by HESCO with effect from September 2004 to December 2010 shows that the Complainant's connection has remained disconnected with effect from September 2004 and HESCO continued issuing bills for fixed charges including taxes/other surcharges to the Complainant up to October 2010. The record also shows that not a single unit was consumed and no payment was made by the Complainant with effect from September, 2004.



- vi. HESCO issued Equipment Removal Order (ERO) on November 12, 2004. As per law, the ERO should have been implemented within 90 days of non-payment of bills and permanent disconnection code should have been allotted against the connection but the same was not done by HESCO and it continued charging bills to the Complainant up to October 2010. On the other hand, there was no usage of HESCO's connection/electricity at the premises from September 2004.
 - vii. Prima facie, HESCO has raised fixed charges against the Complainant under Section 22 of the NEPRA Act, 1997 which is unjustified. Whereas, the fact remains that Section 22 of the NEPRA Act, 1997 is not applicable in case of self generation. The same clarification has also been given in other likewise cases and decisions so rendered have already been implemented by HESCO.
 - viii. HESCO was provided with ample opportunities to justify charging of bills against the Complainant from September 2004 to October 2010 but it failed to rationalize its claim. HESCO can only claim fixed charges from the Complainant up to 90 days from the date of application for disconnection i.e. September 2004 to November 2004.
8. Foregoing in view, HESCO is hereby directed to:
- i. withdraw the fixed charges amounting to Rs.65,52,320/- charged against the Complainant from September, 2004 to October, 2010 being void, illegal and unjustified. The Complainant is liable to be charged fixed charges up to 90 days (maximum period of implementation of ERO) from date of switching over to self generation i.e. September, 2004 to November, 2004.
 - ii. refund security deposit to the Complainant after completion of all codal formalities.
 - iii. provide new connection to the Complainant (as requested) after completion of all codal formalities.
9. Compliance report be submitted within 30 days.


(Maj. (R) Haroon Rashid)
Member (Consumer Affairs)

Islamabad, January 20, 2016

