



Registrar

National Electric Power Regulatory Authority
Islamic Republic of Pakistan

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No. NEPRA/ADG(CAD)/TCD 02/4080-92

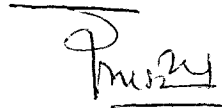
March 13, 2018

Chief Executive Officer
Islamabad Electric Supply Company Ltd. (IESCO)
IESCO Head Office, Street 40,
Sector G-7/4, Islamabad

Subject: **Order in the matter of Case referred by Islamabad High Court, Islamabad in Writ Petition No. 1427/2012 in the matter of Motion for Leave for Review filed by IESCO against the Decision of NEPRA dated 7th April, 2011 in respect of Complaint of General Secretary, Federal Shariat Court Housing Society, Islamabad regarding provision of connection to the Inhabitants of Judicial Town and Reinforcement of System**

Enclosed find herewith Order of the Authority (07 Pages) regarding the subject matter for necessary action and compliance within sixty (60) days, please.

Encl: Order of the Authority (07 Pages)


13 03 18
(Syed Safer Hussain)

Copy to:

1. C.E./Customer Services Director
Islamabad Electric Supply Company Ltd. (IESCO)
IESCO Head Office, Street 40,
Sector G-7/4, Islamabad
2. General Secretary
Federal Shariat Court Employees Cooperative
Housing Society,
Office No. 220, Sector A,
Judicial Town, Chattar, Islamabad



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

Complaint No. IESCO-138/2010

Federal Shariat Court Employees Cooperative Housing Society, Through its General Secretary, **Complainant**
Office No. 220, Sector A,
Judicial Town, Chattar,
Islamabad.

Versus

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

Date of Hearing: 30th November 2017

Present:

- | | | |
|----|-----------------------------|---------------------------------------|
| 1) | Mr. Tariq Saddozai | Chairman |
| 2) | Mr. Saif Ullah Chattha | VC/Member (M&E) |
| 3) | Mr. Himayat Ullah Khan | Member (Tariff) |
| 4) | Syed Masood-ul-Hassan Naqvi | Member (Consumer Affairs)/(Licensing) |

On behalf of:

Complainant:

- i. Brig. (R) Muhammad Siddique
- ii. Mr. Saulat Hussain
- iii. Ch. Azam Riaz

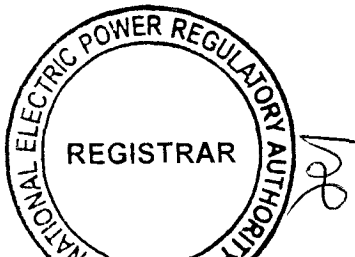
Respondent:

- i. Mr. Sarbuland Khan, Chief Engineer (P&E)
- ii. Mr. Muhammad Naeem Jan, Addl. Manager (Planning)
- iii. Mr. Imam Bakhsh, Addl. Dy. Manager (P&E)
- iii. Mr. Azmat Ali, Advocate

Subject: ORDER IN THE MATTER OF CASE REFERRED BY ISLAMABAD HIGH COURT, ISLAMABAD IN WRIT PETITION NO. 1427/2012 IN THE MATTER OF MOTION FOR LEAVE FOR REVIEW FILED BY IESCO AGAINST THE DECISION OF NEPRA DATED 7TH APRIL 2011 IN RESPECT OF COMPLAINT OF GENERAL SECRETARY, FEDERAL SHARIAT COURT HOUSING SOCIETY, ISLAMABAD REGARDING PROVISION OF CONNECTION TO THE INHABITANTS OF JUDICIAL TOWN AND REINFORCEMENT OF SYSTEM

ORDER

1. Pursuant to the Order of the Honorable Islamabad High Court dated 9th October 2017 in Writ Petition No. 1427/2012 titled "Federal Shariat Court Employees Cooperative Housing



Society vs NEPRA & another”, this Order shall dispose of the petition of Federal Shariat Court Employees Cooperative Housing Society (hereinafter referred to as the “Complainant” or “FSCECHS” or the “Society”) against the decision of the Authority dated 24th February 2012 regarding the review motion filed by Islamabad Electric Supply Company Limited (hereinafter referred to as “Respondent” or the “IESCO”) against the decision of Member (Consumer Affairs) dated 7th April 2011.

2. Brief of the case is as under:

i. NEPRA received a complaint dated 27th October 2010 from General Secretary, FSCECHS (the Complainant) against IESCO, wherein following was stated:

a. WAPDA allowed electric connection to the Society from existing 11 kV Tret feeder upto the extent of 15 Ampere load on 08/01/1994 and entire external electrification network including poles, conductor, transformers etc were taken over by WAPDA on 29-03-1994. Thereafter, WAPDA continued to provide electric connections to all new houses built in the Society.

b. On 9th June 2005, IESCO issued a provisional demand notice for capital cost amounting to Rs.24.129 Million as cost of a feeder. On the Society’s appeal to NEPRA, the amount was revised by IESCO to Rs.13.803 Million.

c. The Society was compelled to sign an undertaking for payment of demand notice in three installments under threat of disconnection. The Society completed the entire internal electrification work at its own expense and handed over the system to WAPDA.

d. After payment of first installment of Rs. 3 million, the Society’s financial position is such that it cannot pay the cost of a separate feeder. The complainant further stated that IESCO’s demand for payment of separate feeder is not justified at this belated stage and it has requested for provision of further connections to the residents from the existing feeder.

ii. The matter was taken-up with IESCO for submission of comments/report. In response, IESCO vide its letter dated 26th November 2010 reported, inter alia, that the design for external electrification was prepared by the Consultant which was sanctioned for external electrification on cost deposit basis through construction of 03 Nos. 11 kV

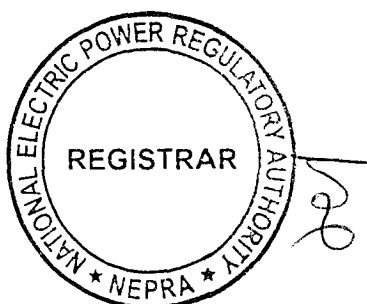


feeders by IESCO for an ultimate load demand of 3741 kW. An interim supply of 15 Ampere on 11 kV side was also provided to the Society from the existing feeder to facilitate the residents who had built their houses till construction of 11 kV feeder. Although the approved design contained provision of 03 Nos. 11 kV feeders but considering the initial load requirement, a demand notice amounting to Rs.24.129 Million was issued for only one feeder on 45 feet steel structures. On NEPRA's directives and on the complainant's request, the cost was revised to Rs. 13.80 Million on the basis of steel structures of 36 feet and thereupon a revised demand notice was issued on 30th January 2006. The Complainant's allegation regarding provision of undertaking under coercion is false and baseless as the payment was allowed in three installments. The Society deposited the 1st instalment and thereafter stopped paying the remaining balance amount of Rs.10.80 Million.

- iii. The report of IESCO was forwarded to the Complainant for information/comments. In response, the Complainant submitted a rejoinder and reiterated its earlier submissions. An opportunity of hearing was provided on 31st January 2011 wherein both the parties participated and advanced their arguments.
- iv. The case was examined in detail in light of written/verbal arguments of IESCO and the Complainant and applicable documents/law, and was decided by the Member (Consumer Affairs) on 7th April 2011. The operative part of the decision is reproduced as under:

“

- a. *The Respondent shall provide electricity connections to the consumers of the Society on same terms and conditions as it is obliged to provide to the other consumers in its service territory as required under NEPRA laws and applicable documents.*
- b. *The Respondent shall immediately refund the amount deposited by the Complainant and submit a compliance report to NEPRA within 30 days.*
- c. *The Respondent shall provide full details about the Complainant's assets it took over from the Complainant to NEPRA within two weeks time.*

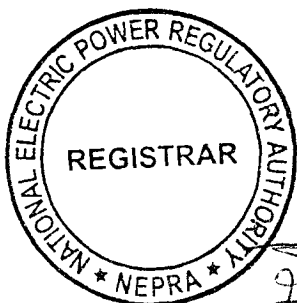


v. Being aggrieved with the decision, IESCO filed Review Petition dated 29th April 2011 which was admitted for hearing on 10th January 2012 wherein both the parties participated and advanced their arguments.

vi. The Authority, after hearing the parties, decided the matter, as under:

“

- a. *The Authority can entertain review request as it has been doing in the past and the contention of the Complainant in this regard was not correct.*
- b. *Review request filed by IESCO is within the prescribed time limit under NEPRA Complaint Handling and Dispute Resolution (Procedure) Rules, 2009 (These rules were sent to Federal Government for notification and circulated to all DISCOs for adopting the same as SOP).*
- c. *Right from the beginning, it is the case of deposit work/ Sponsored Dedicated Distribution System (SDDS).*
- d. *Initially in 1994 and later on in 2007, the connections were given by WAPDA/ IESCO from existing 11 kV feeder on the basis of undertakings given by the Society therefore 75 connections existing in Society cannot be considered as Common Distribution System of IESCO under NEPRA Consumer Eligibility Criteria, 2003.*
- e. *The Society has already deposited Rs 3. Million in 2007 against the IESCO's demand note for Rs 13.803 Million as cost of one 11 kV feeder and had agreed to deposit remaining cost which was not done by the Society.*
- f. *The sponsor/ Society has to pay the cost of electrification as per the agreement/ undertaking with IESCO and as per the provisions of Sponsored Dedicated Distribution System (SDDS).*
- g. *The case of Mr. Haq Nawaz Vs FESCO is different and has no relevance with the instant issue because that was the case of an abandoned colony where Common Distribution System (CDS) was extended with the connivance of FESCO officials. Moreover, there was no such agreement between the parties i.e. FESCO and the Sponsor/Society.*



vii. The Authority's decision was conveyed to both the parties by Registrar NEPRA vide letter dated 24th February 2012. Being aggrieved, the Complainant approached the Honorable Islamabad High Court and filed the Writ Petition No. 1427/2012.

3. The Honorable Islamabad High Court vide its Order dated 9th October 2017 decided as under:

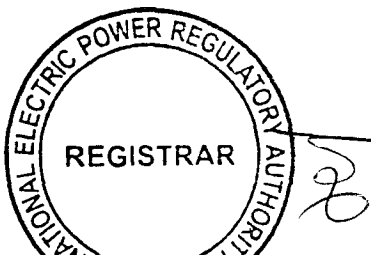
"6... it would be in the fitness of things to remand back the matter to Respondent No. 1 for decision afresh by affording opportunity of hearing to all the stake holders and pass a speaking order considering the contentions of the Petitioner regarding maintainability and scope of review.

7. Order accordingly. NEPRA/Respondent No. 1 is directed to pass a speaking order in the above said terms within shortest possible time but not later than one month of communication of this order. Instant writ petition stands disposed of."

4. In pursuance of the directions of the Honorable Islamabad High Court, hearing in the matter was initially scheduled for 13th November 2017, however, the same was postponed on request of the parties. The hearing was finally held on 30th November 2017. During the hearing, both the parties advanced their arguments. The representatives of FSCECHS argued that the review motion filed by IESCO in April 2011 was not maintainable, as the same was time barred. Further, the Authority did not have the power to adjudicate upon the review motion as per the law in vogue. It was further submitted by FSCECHS that the scope of review motion is limited upto the extent of modification of the impugned decision on the basis of any new evidence and any error on the face of record, however, the decision could not be entirely changed as per the law, whereas in the instant case, the original/impugned decision was changed altogether. IESCO representatives argued that internal electrification of FSCECHS was completed by FSCECHS itself and it was required to be connected with IESCO's system by erecting feeder(s) on cost deposit basis.

5. The case has been examined in detail in light of documents made so available by the parties, arguments advanced during the hearing and applicable law. There is no force in arguments of FSCECHS regarding non-maintainability of the review motion filed by IESCO.

The Authority had implied powers to entertain review petitions/cases as per the provisions of



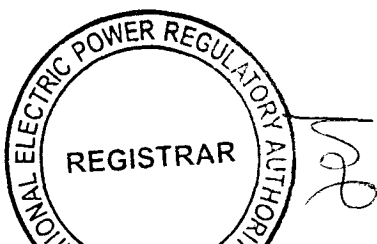
the NEPRA Act, 1997. Moreover, the Authority deliberated on the issue and accordingly amended the decision of Single Member dated 7th April 2011, and the decision on the review petition was conveyed to the parties on 24th February 2012, as explained at para 2(vi) above.

6. Notwithstanding the above, FSCECHS, through letter dated January 23, 2018 has admitted that it was a cost deposit case involving construction of 11 kV feeder for provision of electricity supply to the Society. However, due to financial constraints, the case was dealt in wrong manner. Moreover, it is an abandoned society and its electrification is pending since 1992 due to dispute over feeder charges. The Society requested for sorting out an amicable solution of the case and assured not to press the case filed by it before the Islamabad High Court and NEPRA's decision will be binding on them. The Society has further informed that at present they can only pay Rs. 5 Million for the cost of feeder.


7. Accordingly, in order to resolve the issue, a meeting was conducted, wherein both the parties participated and various options were discussed. IESCO representatives informed that an amount of Rs. 39 Million is required for construction of a new feeder for the Society, however, right of way will be an issue as inhabitation has increased. Further, an amount of Rs. 29 Million is required for up-gradation of the existing feeder because at present the existing 11 kV Tret feeder is overloaded. The representative of the Society stated that they are not in the financial position to bear the cost of the feeder, therefore, it would be feasible for them if the Society is given connection from the existing feeder and the cost is recovered from the Society/applicants keeping in view the load requirement.

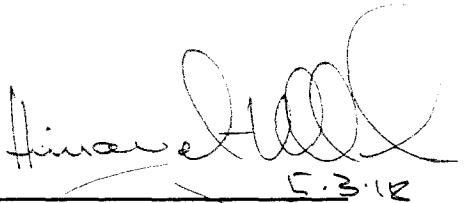
8. Foregoing in view, it has been concluded that the electrification of the Society is pending since the year 1992. The Society's internal electrification had already been taken-over by IESCO for metering/billing purposes. The existing feeder is required to be upgraded by IESCO and the Society is to be provided with connections from the existing 11 kV Tret feeder on cost deposit basis after completion of all the codal formalities. The cost deposit will be paid by each prospective consumer/applicant keeping in view the load requirement. The amount to be paid by the individual applicants on account of feeder charges will be adjusted by the Society. Moreover, the Society will pay Rs. 5 Million in addition to already paid Rs. 3 Million as feeder cost which will be adjusted accordingly.

9. IESCO is directed to enter into an agreement/MOU in light of the above for provision of connection to the Society subject to completion of all codal formalities. A preliminary report

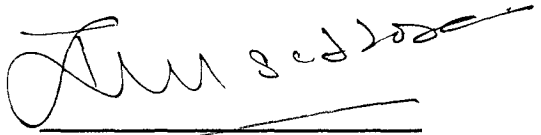


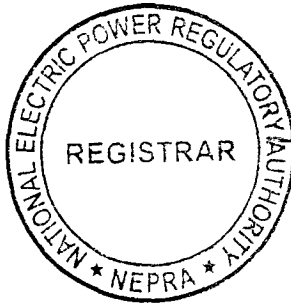
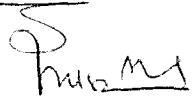
be submitted within sixty (60) days. This decision shall not be made precedence in cases with similar issues or facts. ✓


(Syed Masood-ul-Hassan Naqvi)
Member
23/3/18


(Himayat Ullah Khan)
Member
5.3.18


(Saif Ullah Chattha)
VC/Member
6.3.2018


(Tariq Saddozai)
Chairman


REGISTRAR

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