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National Electric Power Regulatory Authority

Islamic Republic of Pakistan

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Registrar

No. TCD 02 / 2605-2614

Urgent

CS

13-04-2011

Chief Executive Officer
Islamabad Electric Supply Company (IESCO)
Street No 40, G-7/4,
Islamabad.

Brig. Bashir-ud-Din (Retd.)
General Secretary
Federal Shariat Court Employees Cooperative Housing Society
Office No. 3, First Floor, Shalimar Plaza
F-10 Markaz,
Islamabad

BS/4

MCS

Subject: Complaint of Brig. Bashir-ud-Din (Retd.) under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 against IESCO regarding Provision of Connection to the Inhabitants of the Judicial Town an Reinforcement of the System
Complaint # IESCO-138-2010

Please find enclosed herewith decision of Vice Chairman / Member (Consumer Affairs) on the subject matter for compliance by IESCO as indicated in the order.

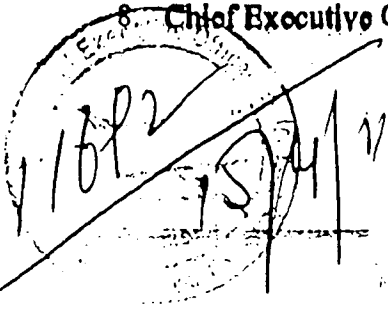
Encl: As above

hussain
(Syed Safer Hussain)

Copy for information to:

1. Chief Executive Officer, Faisalabad Electric Supply Company Ltd.
2. Chief Executive Officer, Gujranwala Electric Power Company Ltd.
3. Chief Executive Officer, Hyderabad Electric Supply Company Ltd.
4. Chief Executive Officer, Lahore Electric Supply Company Ltd.
5. Chief Executive Officer, Multan Electric Power Company Ltd.
6. Chief Executive Officer, Peshawar Electric Supply Company Ltd.
7. Chief Executive Officer, Quetta Electric Supply Company Ltd.
8. Chief Executive Officer, Karachi Electric Supply Company Ltd.

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Received

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BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
NEPRA

Complaint No. IESCO-138/2010

Brig. Bashir-ud-Din (Retd) Complainant

Vs

Islamabad Electric Supply Company Limited (IESCO) Respondent

Date of Hearing: January 31, 2011

Present: Mr. Shaukat Ali Kundi
Vice Chairman / Member (Consumer Affairs)

APPEARANCE ON BEHALF OF:

- Complainant:
- 1) Brig. Bashir-ud-Din (Retd), General Secretary, Federal Shariat Court Employees Cooperative Housing Society
 - 2) Mr. Muhammad Waseem, Office Superintendent, Federal Shariat Court Employees Cooperative Housing Society
- Respondent:
- 1) Syed Amin Shah, Chief Engineer (P&E), IESCO
 - 2) Mr. Muhammad Jabbar Khan, Deputy Manager (P), IESCO
 - 3) Mr. Shabbir Ahmed, Assistant Manager (P), IESCO

IN THE MATTER OF COMPLAINT FILED BY BRIG. BASHIR UD DIN (RETD) UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST IESCO REGARDING PROVISION OF CONNECTION TO THE INHABITANTS OF THE JUDICIAL TOWN AND REINFORCEMENT OF THE SYSTEM

ORDER

1. This decision shall dispose of the complaint dated 01.11.2011 filed by Brig (Retd.) Bashir-ud-din ("the Complainant") General Secretary of the Federal Shariat Court Employees Co-operative Housing Society ("the Society") against Islamabad Electric Supply Company ("the Respondent") regarding provision of electricity connections in the Society.
2. The Complainant in his complaint stated that:

- (NL)
- i) WAPDA allowed electric connection to the Society from existing 11 kV Tret feeder up to the extent of 15 Amperes load on 08.01.1994 and entire external electrification network developed by the Society including poles, conductor, transformers etc. were taken over by WAPDA on 29.03.1994.
 - ii) Further that, WAPDA continued to provide electric connections to all new houses built in the Society. On 9.06.2005 the Respondent issued a provisional demand notice for capital cost amounting to Rs.24.129 million as cost for the provision of a separate feeder.
 - iii) The Society challenged the foregoing demand notice by filing complaint dated 24.12.2005 before National Electric Power Regulatory Authority ("NEPRA"). The Respondent subsequently reduced the demand notice to Rs. 13.803 million.
 - iv) The Society was compelled to sign an undertaking for payment of demand notice in three installments under threat of disconnection and made an initial payment of 3 million.
 - v) Since the Respondent has not initiated any work therefore Respondent's demand of cost of payment of separate feeder was not justified, therefore requested for grant of further connections to the residents, from the existing feeder.
3. The complaint was sent to the Respondent by Consumer Affairs Division, NEPRA for filing of parawise comments. The Respondent in its reply date 26.11.2010 submitted to Consumer Affairs Division (CAD), NEPRA has stated that:
- i) The design for external electrification was prepared by the Consultant which was sanctioned for external electrification on self execution basis and also construction of 03 Nos. 11 kV feeders by the Respondent for an ultimate load demand of 3741 KW on cost deposit basis.
 - ii) An interim supply of 15 Amps on 11 kV side was also provided to the Society from existing feeder to facilitate the residents who have built their houses.
 - iii) The Respondent further stated that approved design contained provision of 02 Nos. 11 kV feeders but considering the initial load requirement demand notice amounting to Rs.24.129 million was issued for only one feeder on 45 feet structures.
 - iv) On NEPRA's directives, the cost was revised on 36 feet structures and demand notice was issued for Rs.13.80 million on 30.01.2006.
 - v) The Respondent also stated that it was not correct that undertaking by the Complainant was submitted under pressure or threat.
 - vi) The payment was allowed in three installments and Respondent only demanded the payment of balance amount amounting to Rs.10.80 million.
 - vii) Respondent has provided connections to the residents as per its commitment but the complainant has not fulfilled its responsibilities.
 - viii) The complainant be advised to make payment of balance cost in light of NEPRA's directive.
4. The response of the respondent was sent to the Complainant for filing rejoinder if desired. The Complainant in his rejoinder dated 15.01.2011 stated that denial of power connections to the residents of Society has no moral or legal ground and not justified. He further stated that the

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system was duly taken over by the Respondent and entire responsibility of further maintenance and improvement rests with the Respondent. The Society was absolved of all the responsibilities for electric supply to the residents and any undertaking or commitment made earlier stood dissolved. The complainant further stated that due to slow pace of construction of houses, Respondent's existing system would not be burdened in the next 10-15 years. The Complainant again requested for electric connections to the new houses.

5. A hearing in the matter in dispute among the parties was fixed for 31.01.2011 wherein both the parties attended and reiterated their respective positions. They were directed to submit their written arguments within 07 days.
6. The Complainant in his written arguments dated 03.02.2011 repeated the same position. It was submitted that the Society requested the Respondent on 14.02.2006 to reimburse the cost of external electrification incurred by the Society by adjusting this amount against the demand notice for separate feeder. But the request was not entertained and they were forced to deposit Rs.03 million as down payment along with Rs.207,044/- as vetting fee. Since WAPDA energized the Society internal electrification in 1994 and provided 73 connections since then, therefore denial of further connections is not justified. WAPDA has officially taken over the system and now the responsibility of further improvement lies with the Respondent. The amount of Rs.03 million as down payment and Rs.207,044/- as vetting fee is unspent and be refunded to the Society with profit earned on the said amount.
7. The Respondent in its written arguments dated 07.02.2011 submitted that IESCO is following the policy of WAPDA in the absence of NEPRA's policy on Housing Societies. The Respondent also raised observation over the argument of the complainant during hearing that the estimate prepared by his Consultant was theoretical. The Respondent raised the observation as to why until now the complainant has not submitted the revised practical design book. The Respondent further informed that the design submitted by the Consultant of the complainant contained provision of 02 Nos. 11 kV feeders for feeding their internal system. The Respondent as per its commitment has taken over only the network of the Society for 15 Amps load and not the whole system of the Society. The management of the Society has not yet informed the Respondent when the whole system of the Society will be completed and from where they will feed their proposed load. The Respondent further requested that approved plan of the Society be obtained from Murree Kahuta Development Authority (MKDA) showing No. and size of plots, commercial centers and common services, along with voltage drop and power loss calculations so as to work out the parameters matching with NEPRA Performance Standards. The Respondent expressed its inability to give true and fair status without above information. It requested NEPRA to direct the complainant for providing the required information so as to offer further arguments/observations.
8. I have perused the pleadings of the Complainant and the Respondent, the correspondence between the parties on the issues involved herein, the argument during the hearing and written arguments submitted by both the parties. Keeping the above in view, it is observed that:
 - a) The Complainant has claimed and submitted the written statement of the Respondent establishing that the Respondent has already taken over the external electrification completed by the Respondent in its Housing Society. Moreover the Respondent has also provided electricity connections to the consumers of the Society through an existing Supply Feeder; therefore any reference to dedicated supply arrangements does not apply.

1 Additionally the Complainant is not interested in "so called" dedicated supply from IESCO as he has requested further connections from the existing feeder.

- b) Any agreement between the parties for the provision of separate feeder remained unfulfilled as the Respondent could not provide evidence that any work has been initiated by it although it had already received an amount of 3 million rupees. The Complainant also claimed that in spite of depositing above referred amount on 15.03.2007, IESCO did not carry out even the survey of the Feeder.
- c) The Respondent's argument that unless, the Complainant deposits the remaining amount as agreed, further steps for the provision of the electricity cannot be taken; will have relevance to the case only if the Complainant still demands a separate feeder, which it does not.
- d) The Respondent's demand for additional information from the Respondent such as development plans from Murree Kahuta Development Authority, details about the amounts collected by the Complainant on account of development, gas provision etc. has no relevance to the main question as to how it can provide electricity to the consumers of the Society. It's reasoning about the design of the system and the plans for 3 vs. 1 feeder is also not helpful in arriving at a decision on the core issue.
- e) The question may be reviewed in the context of the type of service to be provided i.e. dedicated vs. non-dedicated or in terms of the NEPRA's Consumer Eligibility Criteria (ECR) known as Common Distribution System. Had the Complainant persisted with its earlier request for the provision of a Dedicated Supply from IESCO, the agreements between the Complainant and the Respondent could hold. However, once the Complainant had requested further connections from existing power supply feeder, irrespective of the grounds and specifically in the circumstances that the Respondent has not made any specific arrangements, the Respondent is needed to reconsider the whole exercise afresh by treating the supply arrangements to the consumers of the Society as it does for other consumers in its Service Territory. It becomes more important on Respondent's part as it has already taken over the external electrical system of the Complainant thus forming it a part of Common Distribution System under NEPRA's Eligibility Criteria.
- f) The Respondent has not done any development work for the provision of separate feeder since 15 March 2007, therefore it is not justified for the Respondent to retain any amount deposited by the Complainant. Similarly the respondent may have to provide evidence to NEPRA if these assets have been made part of Respondent's asset base for claiming Distribution Margin under its tariff petition.
- g) In terms of rule 6 of NEPRA Licensing (Distribution) Rules, 1999 and Article 6.1 of its Distribution License, the Respondent could charge only such tariff as is approved by the Authority from time to time. In this case, charging of an amount of Rs.03 Million as down payment alongwith Rs.207,044/- as vetting fee from the Complainant was never approved by NEPRA.
- h) With reference to section 21(2)(b) of NEPRA Act, the Respondent is also under legal obligation to provide distribution service and make sales of electric power within its territory on a non-discriminatory basis to all the consumers who meet the eligibility criteria laid down by the Authority, hence the Respondent is under legal obligation to provide the requisite connections to the Complainant.

9. For the foregoing reasons, it is established beyond any doubt that the Respondent (licensee) has contravened the provisions of NEPRA Act, NEPRA Licensing (Distribution) Rules, 1999 as well as its Distribution License. It is, therefore, decided that:-

- i) 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.
- ii) The Respondent shall immediately refund the amount deposited by the Complainant and submit a compliance report to NEPRA within 30 days.
- iii) The Respondent shall provide full details about the Complainant's assets it took over from the Complainant, to NEPRA within two weeks time.

Shaukat Ali Kundi

(Shaukat Ali Kundi)

Vice Chairman / Member (Consumer Affairs)

07.04.2011

Dated: Islamabad April 7, 2011