National Electric Power Regulatory Authority

Islamic Rebublic of Pakistan

Registrar

2nd Floor, OPF Building, G-5/2, Islamabad
Ph: 051-9206500, 9207200, Fax: 9210215
E-mail: registrar@nepra.org.pk

No. NEPRA/R/TCD-09/ 4100 - 4102 24-4-2013

Chief Executive Officer
Karachi Electric Supply Company (KESC)
KESC House No. 39-B, Sunset Boulevard Phase-II
Defence Housing Authority, Karachi.

Subject: **Decision of the Authority on the Motion for Leave for Review Filed by KESC in the Matter of Complaint Filed by Mr. Abubaker Usman for M/S Greytex under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 Against KESC Regarding Demand of Rs.1,233,465/-**
Complaint # KESC-158-2012

Reference is made to the motion for leave for review filed by KESC vide letter dated January 08, 2013 against the decision of Member (Consumer Affairs) dated November 21, 2012 regarding the subject matter.

2. Please find enclosed the decision of the Authority on the motion for leave for review for necessary action and compliance within 30 days of the receipt of this decision.

Encl : As Above

(Syed Safeer Hussain)

Copy to:

1. Syed Muhammad Taha
Chief Distribution Officer
Karachi Electric Supply Company (KESC)
KESC House No. 39-B, Sunset Boulevard Phase-II
Defence Housing Authority, Karachi.

2. Mr. Abubaker Usman for M/s Greytex
CI-7 (West Open), Street No.1, Sector 6-B
North Karachi

No. NEPRA/R/TCD-09/ 4103

24-4-2013

Forwarded for information, please.

Registrar

1. Director (CAD)
2. Assistant Legal Advisor (CAD)
3. Master File [w.r.t. ATC / VC / M (L) D#254 dated 17.04.2013]

CC:
1. Vice Chairman / Member Licensing
2. Member (M&E)
3. Member (Tariff)
4. Member (C.A)

BEFORE THE

NATIONAL ELECTRIC POWER REGULATORY AUTHORITY

(NEPRA)

Complaint No: 158-2012

Karachi Electric Supply Company (KESC) KESC House No 39-B Sunset Boulevard Phase-II Defence Housing Authority, Karachi.	…………………	**Petitioner**

Versus

Mr. Abubakar Usman M/s Greytex CI-7, Street 6-B, North Karachi.	………………	**Complainant**

Date of Decision: March 20, 2013

Present:

1) Mr. Shaukat Ali Kundi — Chairman/ Member (Licensing)
2) Mr. Habibullah Khilji — Member (Monitoring & Enforcement)
3) Khawaja Muhammad Naeem — Member (Tariff)
4) Maj (R) Haroon Rashid — Member (Consumer Affairs)

NATIONAL ELECTRIC POWER REGULATORY AUTHORITY NEPRA AUTHORITY

Subject: **DECISION OF THE AUTHORITY ON THE MOTION FOR LEAVE FOR REVIEW FILED BY KESC IN THE MATTER OF COMPLAINT FILED BY MR. ABUBAKER USMAN FOR M/S GREYTEX UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST KESC REGARDING DEMAND OF RS.12,33,465/-**

Decision

1. This decision shall dispose off the review motion dated January 08, 2013 filed by Karachi Electric Supply Company (hereinafter referred to as the 'KESC' or 'Petitioner') against the decision of Member (Consumer Affairs) dated November 21, 2012 in the matter of complaint of Mr Abubakar Usman for M/s Greytex Karachi (hereinafter referred to as the 'Complainant').

2. Precisely, the Complainant in his complaint dated May 14, 2012 and affidavit dated May 15, 2012 stated that KESC has illegally raised a demand of Rs.1,233,465/- by serving an estimate challan without narrating the nature of work or breakup of installation of electrical devices. Their connection is already connected with Pole Mounted Transformer (PMT) having capacity of 500 kVA installed on self finance basis jointly by 7 industrial consumers (including the Complainant). The Complainant further stated that these 7 consumers paid Rs. 394,676/- for the said PMT vide KESC receipt dated July 27, 2002 and further paid Rs. 162,485/- on July 10, 2003 for replacement of the 500 kVA transformer as it got damaged. The Complainant cited a decision of the Lahore High Court (1988 CLC 1169), as per which a consumer spending amount from his own pocket on purchase of transformer required for electric connection was entitled to adjustment of amount so spent by consumer against estimated cost paid by such consumer. The Complainant further stated that the said PMT is running under load by 30% and the Complainant informed that he had already regularized his load of 13.9 kW and accordingly paid Rs.28,148/- on May 4, 2012. Now KESC has issued demand notice amounting to Rs.1,233,465/- for installation of a PMT while they were already connected on PMT which was installed 100% on self finance basis. KESC had no plausible ground to isolate them from the said dedicated PMT and these 7 shareholders hold bonafide right to utilize its services without interference.

3. To proceed with the matter, the complaint was referred to the KESC vide letter dated May 24, 2012 for submission of para-wise report. KESC vide its letter dated June 14, 2012 reported that the Complainant's premises with connected load of 69 kW is being fed from a 500 kVA PMT along with 6 other industrial consumers. The Complainant was issued notice for regularization of load since his connected load is 69 kW against the sanctioned load of 42 kW. As the Complainant applied for load regularization, estimate was issued to him for security deposit and the installation of dedicated PMT appropriate to the quantum of industrial load. The security deposit amount was paid by the Complainant but the estimate on account of installation of PMT is still unpaid. Industrial consumers are fed through dedicated system as per the policy prescribed in the applicable terms and conditions of tariff. If an industrial consumer being fed from a common PMT has extended his load or applies for an extension of load, he has to follow the applicable terms and conditions of tariff and requires a dedicated system. The Complainant may be advised to pay the estimate on account of dedicated PMT so that further steps could be taken accordingly.

4. The report of KESC was forwarded to the Complainant for his information/rejoinder vide letter dated June 28, 2012. In response, the Complainant vide his letter dated July 14, 2012 approached NEPRA and reiterated his earlier version. He further informed that KESC had not denied any point of his complaint, their connected load is 69 kW and KESC regularized 60% of the same and he paid security deposit at the rate of Rs. 6500/- per kW for regularization of load. Notice of KESC

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regarding regularization of load is illegal. The Complainant requested for withdrawal of the demand notice amounting to Rs.1,233,465/-.

5. To probe further into the matter, a hearing was scheduled for August 01, 2012 which was postponed on request of the Complainant and held on September 10, 2012 at NEPRA Islamabad which was attended by both the parties. During the hearing, the parties stuck to their earlier versions. In addition, the Complainant submitted that initially the PMT was financed by 7 consumers but later KESC provided 3 more connections from said PMT without their consent. Pursuant to the hearing, some information was sought from KESC with respect to sanctioned load of each consumer on the existing PMT, payment of cost of transformer, proportional load share of each consumer and loading position of the existing transformer. The requisite information was submitted by KESC vide letter dated September 26, 2012.

6. The case was examined in detail in light of documents provided by the parties and arguments advanced during the hearing. A PMT with capacity of 500 kVA was installed on cost deposit basis for the industrial consumers including the Complainant in July 2002. Later on, KESC sanctioned 3 additional industrial connections on the same PMT without consent of the aforesaid 07 consumers who had deposited the cost. On application of the Complainant for regularization of his load from 42 kW to 55.9 kW, KESC issued two demand notices to him for Rs.28,148/- for security deposit and Rs.1,233,465/- as cost of a dedicated PMT. The Complainant paid Rs.28,148/- as security deposit but approached NEPRA against the demand notice of Rs.1,233,465/- being cost of dedicated PMT and pleaded the same as unjustified. The record provided by KESC revealed that total connected load of all 10 industrial consumers is 346 kW whereas the existing PMT can bear 400 kW load. This includes the connected load of 69 kW of the Complainant. If KESC assumes that the existing 500 kVA PMT cannot meet the demand of above industrial consumers then it should make arrangement of a dedicated PMT for the additional 03 industrial consumers which were provided connection by KESC in violation of rules from the existing 500 kVA PMT without the consent of the original 07 consumers who had deposited the cost of the PMT. There was no justification for recovery of any amount on account of cost of dedicated PMT from the Complainant when the existing PMT can safely meet the load of existing consumers. This arrangement is covered under NEPRA Consumer Eligibility Criteria, 2003 i.e. Sponsored Dedicated distribution System (SDDS)

7. Member (Consumer Affairs) decided the matter and KESC was directed to:

   i) Remove 03 additional industrial consumers energized from the existing 500 kVA PMT by KESC without consent of original 7 industrial consumers and arrange a separate PMT for them (i.e. 3 additional industrial consumers);

   ii) Regularize the load of the Complainant on existing 500 kVA PMT without demanding any cost for a dedicated PMT from the Complainant and withdraw demand notice of Rs.1,233,465/- served to the Complainant for cost of dedicated PMT provided that the Complainant furnishes 'No Objection Certificate' from the fellow 06 industrial consumers who jointly paid cost of existing 500 kVA PMT.

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8. The decision of Member (Consumer Affairs) dated November 21, 2012 was conveyed to KESC and the Complainant through Registrar letter No. NEPRA/TCD.09/10514-16 dated November 27, 2012 for compliance within 30 days.

9. Being aggrieved by the impugned decision, KESC filed the instant Review Motion under the signatures of Director Distribution Strategy whereas the same was required to be submitted by CEO KESC as per the standing instructions of NEPRA. However, the Authority has considered the review motion filed by KESC. In terms of Regulation 3(2) of the NEPRA (Review Procedure) Regulations, 2009, a motion seeking review of any order of the Authority is competent only upon discovery of new and important matter of evidence or on account of some mistake or error apparent on the face of record. The perusal of the decision sought to be reviewed clearly indicates that all material facts and representation made were examined in detail and there is no occasion to amend the impugned decision. No error inviting indulgence as admissible in law has been pleaded out. Therefore, the Authority is convinced that the review would not result in the withdrawal or modification of the impugned decision. Moreover, the review petition is time barred under NEPRA Complaint Handling and Dispute Resolution (Procedures) 2011 and NEPRA (Review Procedure) Regulations, 2009. Hence the motion for review is declined.

15/4

(Maj (R) Haroon Rashid)
Member

16.4.2013

(Khawaja Muhammad Naeem)
Member

17/4/2013

(Habibullah Khilji)
Member

(Shaukat Ali Kundi)
Chairman

18.04.13

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