



National Electric Power Regulatory Authority
Islamic Republic of Pakistan

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No. NEPRA/DG(CAD)/TCD-05/41018-22

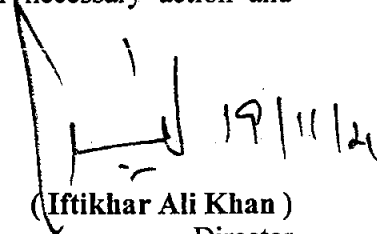
November 19, 2021

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

Subject: **DECISION IN THE MATTER OF ICA NO. 1363/2016 IN WRIT PETITION NO. 29634/2016: PAKISTAN EXPATRIATES CO-OPERATIVE HOUSING SOCIETY LIMITED (PECHS) VALANCIA VS. NEPRA ETC REFERRED BY THE LAHORE HIGH COURT, LAHORE**

Please find enclosed herewith the Decision of the Member (Consumer Affairs) dated November 18, 2021 (03 Pages), regarding the subject matter for necessary action and submission of preliminary report within thirty (30) days.

Encl: As above


(Iftikhar Ali Khan)
Director

Copy to:

1. Chief Engineer/Customer Services Director, LESCO, 22-A, Queen's Road, Lahore.
2. Chief Engineer (Planning), LESCO, 22-A, Queen's Road, Lahore.
3. Manager (Commercial), LESCO, 22-A, Queen's Road Lahore.
4. Syed Haider Ali, Legal Counsel, (PECHS) Valancia, Ltd., Block-H/A6, Commercial Zone, Valancia Town, Lahore.
5. The Pakistan Expatriates Cooperative Housing Society, (PECHS) Valancia, Ltd., Block-H/A6, Commercial Zone, Valancia Town, Lahore.



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

LESCO-56/10/2021

The Pakistan Expatriates Cooperative Housing Society,
(PECHS) Valancia, Ltd., Block-H/A6, Commercial Zone,
Valancia Town, Lahore

..... **Petitioner**

VERSUS

Lahore Electric Supply Company (LESCO)
22-A, Queens Road, Lahore

..... **Respondent**

Date of Hearing: October 27, 2021

Petitioner: Syed Haider Ali, Legal Counsel, (PECHS) Valancia, Ltd,

Respondent:

- 1) Mr. Bashir Ahmed, Chief Engineer (P&D), LESCO
- 2) Mr. Faisal Zakria, Addl. Manager, LESCO
- 3) Mr. Nasir Ali, Deputy Manager, LESCO

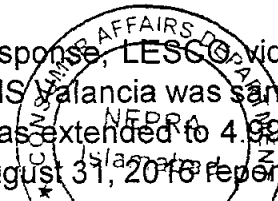
Subject: DECISION IN THE MATTER OF ICA NO. 1363/2016 IN WRIT PETITION NO. 29634/2016: PAKISTAN EXPATRIATES CO-OPERATIVE HOUSING SOCIETY LIMITED (PECHS) VALANCIA VS. NEPRA ETC REFERRED BY THE LAHORE HIGH COURT, LAHORE

DECISION

This decision shall dispose of the petition of Pakistan Expatriates Co-operative Housing Society Limited Valancia (hereinafter referred to as the "Petitioner" or "PECHS Valancia" or "the Society", referred by Honorable Lahore High Court for decision.

2. The brief facts of the case are that NEPRA received complaints in April 2016 and August 2016 from Mr. Shoukat Ali Dogar and Mr. Muhammad Amir, respectively residents of Pakistan Expatriates Cooperative Housing Society (PECHS), Valancia, Lahore (hereinafter referred to as "the Complainants"). The complaints were registered under complaint Nos. LESCO 44/2016 and 127/2016 respectively. The Complainants submitted that generation and distribution of electricity is being managed by the PECHS Valancia itself without being licensee of NEPRA and the PECHS Valancia is charging high rates of electricity to the residents.

3. The complaints were taken up with LESCO. In response, LESCO vide letter dated June 16, 2016 reported that the connection of PECHS Valancia was sanctioned in the year 1999 under C-2 (tariff) for 3MW load; which was extended to 4.09 MW on June 19, 2015. In furtherance, LESCO vide letter dated August 31, 2016 reported that



individual billing for residential or commercial connections are being governed by PECHS Valencia itself which does not relate to LESCO.

4. A hearing in the matter was held on September 01, 2016 at LESCO Headquarters, Lahore. Subsequently, the management of Pakistan Expatriates Cooperative Housing Society (PECHS), Valencia was directed vide interim order dated September 09, 2016 to charge bills to the owner/occupants/consumers of PECHS Valencia as per tariff approved by NEPRA for LESCO and provision of electricity supply through generators be dealt separately and be decided amicably with the occupants of PECHS Valencia.

5. In response the PECHS Valencia approached the Honorable Lahore High Court, Lahore vide Writ Petition No. 29634/2016 against the directions of NEPRA. The Honorable Court dismissed the said petition vide its order dated September 23, 2016. In response thereto, the management of PECHS Valencia filed ICA No. 1363/2016. In the said petition, PECHS Valencia submitted that the Society is being provided with electricity from LESCO through bulk supply connection under C-2 tariff and the electricity so received is being distributed to the consumers privately by the Society. The Petitioner further submitted that NEPRA's approved consumer end tariff is not applicable to the consumers of the Society due to incursion of additional cost of distribution of electricity within the Society which is being proportionally shared between the consumers. The Petitioner argued that the order passed by the single bench of Lahore High Court, Lahore lacks reason and is not sustainable in the eyes of the law. The Petitioner added that NEPRA lacks jurisdiction to adjudicate matters of supply of electricity in private societies under category (C) tariff as per relevant provisions of NEPRA Act and on the basis of, no profit no loss, as per the Electricity Act, 1910. The Petitioner prayed through instant intra-court appeal for temporary and permanent injunction against interim order dated September 09, 2016 issued by NEPRA. The Honorable Court suspended the operation of the interim orders vide its order dated September 26, 2016. In light of the order of the court, further proceedings in the matter were suspended by this office.

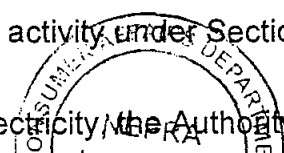
6. The Honorable Lahore High Court, Lahore vide order dated October 04, 2021 disposed of the above ICA No. 1363/2016. The operative part of the order is as under:

'..... Respondent No. 2 (NEPRA) is directed to decide the complaint of the Appellant, if pending, in accordance with law through a speaking order within a period of two months..... Disposed of accordingly'

7. In order to comply with the directions of the Court, a hearing was held on October 27, 2021 at NEPRA Head office Islamabad which was attended by the representatives of LESCO and PECHS Valencia. The legal counsel of PECHS Valencia submitted that the management is ready to hand over the distribution network of the society to LESCO. LESCO representatives agreed to take over the distribution system of PECHS Valencia subject to bringing the distribution network as per specifications of LESCO on cost deposit basis. During the hearing the PECHS Valencia was informed that for the sake of bringing their distribution system in accordance with the specifications of LESCO, charges (if any) shall be paid by the PECHS Valencia. The representative of PECHS, Valencia agreed to the same and assured that they will bear the cost to bring their distribution system as per LESCO's specifications.

8. The case has been examined in detail in light of written/ verbal arguments of the parties. The following has been concluded:

- i. Distribution/ resale of electricity is a licensed activity under Section 20 of the NEPRA Act.
- ii. For the purpose of distribution and sale of electricity, the Authority has



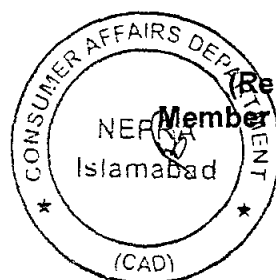
granted distribution licenses to the distribution companies (the "DISCOs" or Licensees") including LESCO and defined their service territories for their operations. Furthermore under Article 7 of the distribution licenses, the DISCOs have been granted exclusivity in their service territories to engage in the distribution services, sale of power and services incidental thereto.

- iii. The Authority framed National Electric Power Regulatory Authority (Supply of Electric Power) Regulations, 2015 to regulate lawful supply of electric power under the NEPRA Act. According to the said regulations; any housing colony, housing society, an industrial estate or a complex engaged in procuring electricity from the Distribution Licensee at a duly approved Rate and supplying the same to the residents/consumers prior to the commencement of the Act, may have the options either to:
 - a) Surrender their distribution network to the concerned Distribution Company
 - b) Obtain a distribution license from the Authority
 - c) Enter into an O&M Agreement with the concerned Distribution Company as per regulation 5 of the ibid regulations and submit the same for the approval of the Authority
 - d) Any other arrangement as approved by the Authority.
- iv. In light of the amendments in the NEPRA Act; the ibid regulations have been amended. Accordingly, the regulations along with new templates of O&M was shared with all stakeholders. In response, LESCO challenged the same in the Lahore High Court, Lahore vide writ petition No 6022-2021.
- v. PECHS Valancia was authorized by Government of Punjab to supply electricity in the Society since the year 1995.
- vi. The management of Pakistan Expatriates Cooperative Housing Society (PECHS), Valancia is willing to surrender the distribution network of the Society to LESCO for maintenance, operations and billing etc, purposes.

9. In view of the above, LESCO is directed to take over the distribution system of Pakistan Expatriates Cooperative Housing Society (PECHS), Valancia after completion of codal formalities. However, the cost to bring the distribution network as per the specifications of LESCO will be borne by Pakistan Expatriates Cooperative Housing Society (PECHS), Valancia Lahore as agreed by PECHS Valancia.

10. A preliminary report in the matter be submitted within 30 days.

Islamabad, November 18, 2021



(Rehmatullah Baloch)
Member (Consumer Affairs)