



National Elect. Power Regulatory Authority

ISLAMIC REPUBLIC OF PAKISTAN

Consumer Affairs Department, NEPRA TOWER

Ataturk Avenue (East) Sector G-5/1, Islamabad.


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TCD.04/3904-2022
July 07, 2022

Chief Executive Officer
Faisalabad Electric Supply Company Limited (FESCO)
Abdullah Pur, Canal Bank Road, Faisalabad.

Subject: **COMPLAINTS FILED BY PROPERTY/PLAZA OWNERS OF KOHINOOR CITY FAISALABAD UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST FESCO REGARDING NON PROVISION OF ELECTRICITY CONNECTION**
Complaint No. FESCO-27/02/2020.

Please find enclosed herewith the decision of the NEPRA Consumer Complaints Tribunal dated July 07, 2022 regarding the subject matter for further necessary action and submission of compliance within thirty (30) days.


(Lashkar Khan Qambrani)
Director Consumer Affairs

Copy to:

1. C.E/Customer Services Director, FESCO, Abdullah Pur, Canal Bank Road Faisalabad.
2. Chief Engineer (Planning), FESCO, Abdullah Pur, Canal Bank Road, Faisalabad.
3. Director (Commercial) FESCO, Abdullah Pur, Canal Bank Road Faisalabad.
4. Manager, Kohinoor Industries Limited, P.O Box No 44, Jaranwala Road, Faisalabad, Ph No. 8540211.
5. Mr. Liaqat Ali, Plot No.01, Kohinoor Mall, Faisalabad.
6. Mr. Asim Rana Muhammad Khan, Plot No.C-6/B, Kohinoor City, Faisalabad.
7. Mr. Muhammad Azmat, Plot No.12-A, Kohinoor City, Faisalabad.
8. Rana Fayyaz Ahmed, Plot No.C-6/c, Kohinoor City, Faisalabad.



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

Complaint No. FESCO-27/02/2020

Mr. Asim Rana Muhammad Khan, Kohinoor City, Faisalabad.
Mr. Liaqat Ali, Plot No.01, Kohinoor Mall, Faisalabad.
Mr. Muhammad Azmat, Plot No.12-A, Kohinoor City, Faisalabad.
Rana Fayyaz Ahmed, Plot No.C-6/c, Kohinoor City, Faisalabad.
and others

Complainants

Versus

Faisalabad Electric Supply Company (FESCO)
Abdullah Pur, Canal Bank Road Faisalabad.

..... Respondent

Date of Hearing: November 06, 2020
December 02, 2020
January 09, 2021
January 18, 2021
June 26, 2021
August 31, 2021
December 07, 2021
December 10, 2021
May 14, 2022

On behalf of:

Complainant:

1. Mr. Asim Rana Muhammad Khan
2. Mr. Liaqat Ali
3. Mr. Muhammad Azmat
4. Rana Fiaz Ahmed
5. Mr. Muhammad Sarwar
6. Mr. Shabaz Qamar
7. Rana Fiaz Ahmed
and others

Respondent:

1. Mr. Mazhar Naveed, CE (P&D)
2. Mr. Itrat Hussain, CE (P&D)
3. Mr. Muhammad Nawaz, CE (P&D)
4. Mr. Khurram Inayat, DM (P&D)
5. Mr. Faisal Shaii, XEN
6. Mr. Farrukh Pervez, SDO

Sponsor:

Mr. Bilal Majeed, Kohinoor Housing Society

SUBJECT: DECISION IN THE MATTER OF COMPLAINTS FILED BY MR. ASIM RANA MUHAMMAD KHAN AND OTHERS PLAZA OWNERS AGAINST FESCO UNDER SECTION 39 OF THE NEPRA ACT 1997 REGARDING NON PROVISION OF ELECTRICITY CONNECTIONS

DECISION

Through this decision, the complaints filed by Asim Rana Muhammad Khan and others (hereinafter referred to as the "Complainants") against Faisalabad Electric Supply Company Limited (hereinafter referred to as the "Respondent" or "FESCO"), under Section

39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "NEPRA Act").

2. Mr. Asim Rana Muhammad Khan in his complaint submitted that he owns a building in Kohinoor City Housing Scheme Jaranwala Road, Faisalabad (hereinafter referred to as the "Kohinoor City") and he was provided a temporary connection by FESCO in August 2015 for the purpose of construction. After completion of construction work the Complainant applied for regular (permanent) connection, however, the same was denied by FESCO. The said temporary connection remained operational for four (4) years and disconnected alongwith dedicated transformer in October, 2019. The Complainant approached NEPRA and requested for provision of a permanent electricity connection. The matter was taken-up with FESCO and a report in this regard was solicited from FESCO. In the meantime, a number of other residents/plaza owners of Kohinoor city approached NEPRA regarding non-provision of electricity connections by FESCO.

3. In response to above, FESCO reported that the complainant was provided a temporary connection in the year 2015 which was disconnected upon expiry of stipulated time in the year 2019. The complainant applied for reconnection which was not allowed due to unelectrified area of Kohinoor City. FESCO further reported that the complainant has filed a Civil Suit which is under trial. The report of FESCO was sent to the complainant and he was informed that the issue is subjudice, therefore NEPRA cannot intervene in the matter. In response, the complainant again approached this office and informed that he has withdrawn his case from the Civil Court. Subsequently, a number of other plaza owners approached this office for provision of electricity connections. In this regard, a few hearings were conducted at NEPRA Head Office, Islamabad and NEPRA Regional Office, Faisalabad. Accordingly, FESCO was directed vide interim order dated February 8, 2021 to provide temporary connections to the said complainants (06 complainants). Meanwhile, NEPRA received orders of the Honorable Lahore High Court dated February 12, 2021 in respect of Mr. Usman Ali VS FESCO. Accordingly, after conducting hearing, FESCO was directed vide order dated March 18, 2021 to provide temporary connection to the complainant.

4. It was appraised by FESCO during the proceedings of the case that the issue is under investigation with Director (FIA), North Lahore. Accordingly, FIA was requested vide letters dated January 20, 2021 and June 28, 2021 to convey its observations / objections, if any, however no response was received from FIA.

5. In order to proceed further, FESCO vide letter No. 4984/88/CE(P&D) dated June 09, 2021 submitted that it has asked the sponsor of Kohinoor City to provide revised design book accordingly to actual development at site; however, the same is still awaited. Accordingly, the sponsor was directed vide this office letter dated July 02, 2021 to provide revised design book to FESCO. In response, the sponsor vide letter dated July 15, 2021 submitted that they had already provided design book to FESCO at the time of electrification of Kohinoor City which was approved by FESCO in the year 2005. If any other design book is desired the plaza owners be asked for the same as the plots have already been sold out. The sponsor requested that FESCO be directed to issue demand notice for second feeder for Kohinoor City which is the remaining liability of the sponsor.

6. Subsequently, few hearings were conducted to arrive at an informed decision. The hearings were attended by all the concerned parties. In view of the discussions, the plaza owners prepared a revised design book through a consultant and submitted the same to FESCO, showing ultimate load of the plazas as 13.59 MW. In response, FESCO vide letter dated November 10, 2021 asked the sponsor / plaza owners / complainants to intimate a specific land / area for site selection committee of FESCO for construction of 132kV grid station. Accordingly, after due deliberation, FESCO's site selection committee finalized a 20 Kanal piece of land. In order to proceed further, FESCO was directed by NEPRA to intimate the same / consent of FESCO to the complainants / plaza owners for acquiring / purchase of land for construction of grid station.

7. The case has been examined in detail in light of written/verbal arguments of all the parties, documents placed on record and the applicable law. The following has been concluded:

- i) Main requirements of the case are as follows:
 - a) Assessment of fresh load.

- b) Provision of 20 Kanal land for grid station.
 - c) Construction of 11kV feeder(s) as per the requirement of load.
 - d) Grid sharing charges as per the load.
 - e) Grid Station in case load exceed 20 MW.
- ii) The case is quite old i.e. pending since the year 2005 whether the new policy i.e. CSM is applicable in the instant case or the same is to be dealt in accordance with policy in vogue at that time. After detailed deliberations, it was concluded that the load has been enhanced manifold and some residential area / belt has been converted into commercial. Moreover, the Kohinoor City is partially electrified, therefore the new policy / Consumer Service Manual (CSM) is applicable. -
- iii) External electrification of the Kohinoor City was approved by FESCO on July 14, 2005 with assessed load of 9398kW. The sponsor paid the demand notices issued by FESCO. The domestic load was assessed as 1196kW and the commercial load as 8202kW. The conditions in the approval were inter alia as under:
 - a) Initially, supply of power was proposed to be fed from a new 11kV independent feeder along with all the allied installations at 132kV grid station OTP, Faisalabad. The sponsor was to pay Rs. 3.467 million for the same.
 - b) New feeder to be constructed at the cost of sponsor as and when required from any grid station.
 - c) 100% grid sharing charges @ Rs. 1368 / kW against the approved load of 9398kW, amounting to Rs. 12.857 million to be paid by the sponsor.
 - d) The sponsor was to carry out the underground electrification work through WAPDA /FESCO approved contractor strictly in accordance with specifications and standards of WAPDA / FESCO.
- iv) At the time of approval of electrification work of Kohinoor City, there was no requirement of separate grid station. The Kohinoor City was to be provided with two independent 11kV feeders for the entire load of 9398kW. The sponsor paid cost for construction of one feeder. Accordingly, FESCO constructed the feeder and provided connections to the inhabitants / occupants / residents / Plaza owners etc of Kohinoor City, however, the demand notice for second feeder was not issued. FESCO has provided 222 connections in the Kohinoor City.
- v) According to FESCO, the domestic and commercial load was 1196kW and 8202kW respectively. With the passage of time, some residential areas were converted into commercial areas which caused variation in assessed load.
- vi) According to FESCO, the complainants have submitted design book for 96 commercial plots with load of 13.59 MW which are part and parcel of Kohinoor City. Moreover, there is another row of plots / commercial buildings which are not included in the design book. FESCO has further submitted that the overall load of 96 plots may exceed 20MW for which an independent 132kV grid station is required on cost deposit basis. FESCO has submitted that the load of plazas has been assessed on the basis of "as presently built" at site whereas according to Consumer Service Manual (CSM), the load is required to be assessed as per approved layout plan. According to FESCO, the consultant has proposed 3 Nos 11 kV feeders for provision of supply to Kohinoor City, whereas the ultimate load may require one more feeder. The ultimate load is required to be assessed as per provisions of Consumer Service Manual (CSM).
- vii) According to the sponsor, it has fulfilled its obligations regarding payment of grid sharing charges and cost of one independent feeder and the sponsor also assured to pay the cost of second feeder which was to be constructed as per the approval dated July 14, 2005. The sponsor has further submitted that they have sold out all the plots and now they are not responsible for electrification work except for payment of cost of one 11 kV feeder. The sponsor should have pursued the case with FESCO till completion of

electrification, however the same was not done. Therefore, the sponsor cannot be absolved of its obligations / responsibilities.

- viii) In the instant case, there was no requirement of independent grid station when electrification case was approved by FESCO in the year 2005. However, in order to resolve the long outstanding issue, NEPRA decided to process the case in light of provisions of Consumer Service Manual (CSM) which provides that any housing society / scheme having load beyond 20MW are required to be provided with electricity supply through an independent grid station. The Consumer Service Manual (CSM) further envisages that the housing schemes having load above 10MW upto 20MW are required to be fed through dedicated grid station and associated transmission line or the distribution company may provide connection from its own grid station subject to availability of capacity / load in its grid station and mutual consent. In such case, distribution company shall recover 100% grid sharing charges including transmission line charges and a piece of land i.e. minimum 12 Kanal land for construction of Gas-insulated grid station and 20 Kanal land for air-insulated grid station within the housing scheme / society. Since the instant case is very old and no land is available inside the society, therefore the sponsor / applicants / complainants / consumers / plaza owners were directed to arrange land outside the Kohinoor City and acceptable to FESCO. Moreover, the housing scheme is required to provide independent 11kV feeder. Accordingly to the documents placed on record, the ultimate load of commercial areas has been assessed as 13.59MW and adding the load of existing residential plots, the ultimate load will remain in between 10MW to 20MW. Therefore, the sponsor / complainant / consumers / complainant / plaza owners were directed to arrange 20 Kanal land for construction of grid station by FESCO.
- ix). In order to resolve the issue, the sponsor / applicants / complainants / consumers / plaza owners were required to approach FESCO for completion of formalities for electrification of Kohinoor City. Accordingly, a committee comprising of different plot owners arranged 20 Kanal land for construction of grid station which was also finalized by FESCO's technical committee.
- x) Consumer Eligibility Criteria (Distribution Licenses) Regulation, 2022 envisages that distribution licensee shall ensure that all applications and consumers are treated in a non-discriminatory, fair, transparent and just manner.
- xi) Under Article 9 and 14 of the Constitution of Islamic Republic of Pakistan provision of electricity is a Fundamental Right of all citizens. Non-supply of electricity to a citizen, tantamount to deprivation of this Fundamental Right as well as violation of Article 8 of the Constitution which says that any law, custom or usage having the force of law that is inconsistent or abridges a Fundamental Right is void and inoperable. The provision of electricity has also been interpreted as a Fundamental right by the Supreme Court of Pakistan.

8. The electrification case of Kohinoor City was approved in the year 2005 for ultimate load of 9398kW by constructing two 11kV feeders. At that time, there was no requirement for construction of an independent grid station. FESCO issued demand notice for construction of one 11kV feeder which was paid by the sponsor and the said feeder was constructed, however, demand notice for the second feeder was not issued by FESCO. The sponsor also paid grid sharing charges as per policy in vogue at that time for 9398kW. The revised design book shows ultimate load of 13.59MW. It appears that this load, i.e. 13.59MW if included in the existing residential load, will be below 20MW. The Consumer Service Manual (CSM) envisages that the housing schemes having load above 10MW upto 20MW are required to be fed through dedicated grid station and associated transmission line or the distribution company may provide connection from its own grid station subject to availability of capacity / load in its grid station and mutual consent. In such case, distribution company shall recover 100% grid sharing charges including transmission line charges and a piece of land i.e. minimum 12 Kanal land for


construction of Gas-Insulated Grid Station and 20 Kanal land for Air-Insulated Grid Station within the housing scheme / society. The issue remained unresolved and the residents / occupants are facing problem due to incomplete electrification and non-provision of regular connections by FESCO. At present, Kohinoor City is being fed through one 11kV feeder and according to FESCO, the present load is 3 to 4MW. It may take many years to achieve the load of 20MW, therefore, FESCO may accommodate the load of Kohinoor City from its own grid stations at present and recover the charges as per provisions of Consumer Service Manual (CSM).

9. Foregoing in view, FESCO is directed as under:

- i) To direct the sponsor / committee to purchase 20 Kanal land indicated by the committee and accepted by FESCO. Once the land is purchased, FESCO shall take over the same.
- ii) A mechanism be devised by FESCO in consultation with the committee that the cost incurred on purchase of the land be returned to the committee.
- iii) From our point of view, the load of Kohinoor City will be below 20MW. However, FESCO is of the view that the load may exceed the limit of 20MW. Payment criteria / charges for both i.e. above 20MW and below 20MW are different. FESCO may reassess the complete load of Kohinoor City at its own in consultation with the committee as per provisions of Consumer Service Manual (CSM). However, it shall not impact provision of connections to the applicants of Kohinoor City. FESCO may start provision of connections upon receipt of this order.
- iv) FESCO may recover the charges from the applicants as per the provisions of Consumer Service Manual (CSM) for load below 20MW for the time being. In case the ultimate load is assessed by FESCO exceeds 20MW then the difference of charges shall be paid by the applicants for which they have to provide an undertaking while applying for connection that in case of change in assessed load, they will pay the difference as per the criteria. These charges are not applicable to already energized residential consumers, however, such residential consumers will pay these charges in case of extension of load, if any for their extended load.
- v) The charges @ per kW be assessed after adjustment of already paid grid sharing charges for 9398 kW load. As committed, the sponsor shall pay cost of one of the additional 11kV feeders. The cost of this feeder shall not be included in the estimate to be charged to the applicants on per kW basis.
- vi) At present the running load of Kohinoor city is about 4 MW. FESCO to provide connections for the time being from its own distribution system / grid station(s) to avoid delay for redressal of a long outstanding issue of the occupants. Priority be given to those consumers whose connections have been disconnected.
- vii) In case the assessed load exceeds 20MW, the working of the same be shared with this office and the difference in charges earlier paid on the basis of load assessed below 20 MW and charges assessed on the basis of load above 20 MW be recovered from the applicants on per kW basis.
- viii) After collection of these charges FESCO may install a power transformer of appropriate capacity at any of its grid stations for feeding the load of Kohinoor City or FESCO may construct a grid station on the land provided by the committee and install an independent power transformer of Kohinoor City on that grid station in addition to utilization of the grid station for its other consumers. Moreover, additional 11kV feeder(s) be constructed as per requirements. The actual costs for installation of power

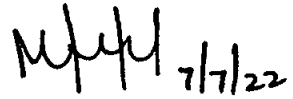
transformer along with allied equipment and 11kV feeders be worked out by FESCO on per kW basis of the new ultimate assessed load. The charges shall be taken from the applicants on per kW basis.

9. In this regard a preliminary report be submitted within thirty (30) days.



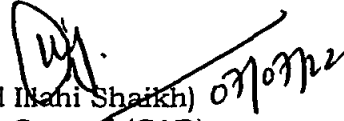
(Lashkar Khan Qambrani)
Director (CAD)

(Member Consumer Complaints Tribunal)



(Muneem Ul Hassan)
Assistant Legal Advisor

(Member Consumer Complaints Tribunal)



(Naveed Iqbal Shaikh)
Director General (CAD)

(Convener Consumer Complaints Tribunal)

Islamabad, July 07, 2022.