



**National Electric Power Regulatory Authority**  
**Islamic Republic of Pakistan**

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**OFFICE OF THE  
REGISTRAR**

No. NEPRA/ADG(CAD)/TCD-07/

**9677-79**

March '30, 2020

1. Chief Executive Officer,  
Hyderabad Electric Supply Company (HESCO),  
WAPDA Water Wing Complex, Hussainabad,  
Hyderabad.
2. Mr. Tahir Iqbal,  
Chief Financial Officer & Company Secretary,  
Power Cement Limited, HO: Arif Habib Centre 23,  
M.T. Khan Road, Karachi.

Subject: **DECISION IN THE MATTER OF COMPLAINT FILED BY POWER CEMENT LIMITED UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST HESCO REGARDING CHANGE OF NAME**

Complaint # HESCO-80/03/2019

Please find enclosed herewith the decision of Member (Consumer Affairs) NEPRA (06 Pages) regarding the subject matter for necessary action.

Encl: As above

(Syed Zavar Haider)  
Deputy Registrar

Copy to: C.E./Customer Services Director, Hyderabad Electric Supply Company (HESCO),  
WAPDA Water Wing Complex, Hussainabad, Hyderabad.



**BEFORE THE  
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY  
(NEPRA)**

**Complaint No. HESCO-80/03/2019**

**M/s Power Cement Limited**  
Arif Habib Centre 23, M.T. Khan Road  
Karachi, Sindh.

**Complainant**

**Versus**

**Hyderabad Electric Supply Company (HESCO).....**  
WAPDA Water Wing Complex, Hussainabad  
Hyderabad, Sindh.

**Respondent**

**Date of Hearing(s):** 15<sup>th</sup> May 2019  
18<sup>th</sup> November 2019

**On behalf of:**

**Complainant:**

- 1) Tahir Iqbal, CFO & Company Secretary
- 2) Mr. Jam Naveed
- 3) Mr. Hassan Raza (Consultant)

**Respondent:**

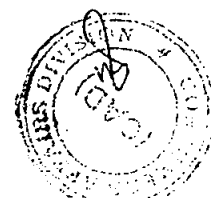
- 1) Mr. Muhammad Irfan Memon, Chief Engineer (P&D)
- 2) Mr. Manzoor Hussain, Chief Engineer (P&D)

**Subject:** DECISION OF NEPRA IN THE MATTER OF COMPLAINT FILED BY POWER CEMENT LIMITED UNDER SECTION 39 OF THE NEPRA ACT, 1997 AGAINST HYDERABAD ELECTRIC SUPPLY COMPANY (HESCO) REGARDING CHANGE OF NAME

**DECISION**

This Decision shall dispose of the complaint filed by Power Cement Limited (hereinafter referred to as the "Complainant" or "Company" or "PCL") against Hyderabad Electric Supply Company (hereinafter referred to as the "Respondent" or "HESCO") under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "NEPRA Act").

2. Brief facts of the case are that the Complainant in its complaint submitted that initially the Company was incorporated under the name of "Essa Cement Industries Limited". The name of the Company was changed to "Al-Abbas Cement Industries



Limited" and the change of name certificate was issued by Securities & Exchange Commission of Pakistan (SECP) on May 19, 2005. Subsequently, the name of the Company was once again changed to "Power Cement Limited" and change of name certificate was also issued by SECP on March 13, 2013. Pursuant to the on-going plan of expanding the capacities of its cement project, the Complainant approached HESCO for enhancement of the sanctioned load from 20 MW to 60 MW and change of name. However, HESCO demanded security deposit for entire load of 60 MW. The Complainant is of the view that since the Company had already paid the security deposit of 20 MW, therefore they are liable to pay the security deposit only for the incremental load of 40 MW. PCL further submitted that the change of name does not affect the rights of PCL, which it otherwise may be enjoying under the laws of land and the PCL has further submitted that as per section 13(3) of the Companies Act 2017 i.e. " *The change of name shall not affect any rights or obligations of the Company* "

3. PCL has further submitted that they have not sold the Company for which it earlier acquired the load of 20 MW and now it needed the increase in load i.e. from 40 MW to 60 MW, thereby PCL has not caused change in the ownership of its Company. Moreover, the change of a Company does not cause any change in ownership of the assets owned by the Company, because the Company as a legal/artificial/juristic person remains the same and the change of name of the Company does not cause any change in ownership of the assets owned by its Company. PCL has expressed that if the change of name is treated as the change of ownership of the assets of the Company then it would lead to an anarchic situation as following:

- i. It will have to go to property registrar offices, patwaris and revenue offices to get sale deeds of properties already purchased by it in the past. It will again have to pay the sale consideration to the seller from whom it already purchased its properties (lands, cars, machinery, equipment, etc.).
- ii. Change of name causes change of person then borrowers will simply borrow billions of rupees of loans from banks and then they will simply change their name and become new person to avoid payment of loans.
- iii. With every change of name, all the past taxes, already paid, would have to be paid again.
- iv. All the employees would need to be re-hired
- v. All the contracts and agreements need to be re-entered.
- vi. All the security deposits and fees already paid to DSICO would have to be paid again.

4. The Complainant was taken up with HESCO. In response, HESCO vide its letter dated April 12, 2019 submitted (inter-alia) that since the instant case contains both i.e. change of name from Al-Abbas Cement Factory to M/s Power Cement Ltd. and extension of load from 20 MW to 60 MW, therefore the request for revision of the security deposit only on the incremental load cannot be processed. HESCO further stated that it has advised PCL vide letter dated July 31, 2018 to submit security deposit amounting to Rs.



195 Million which PCL has failed to submit till date. The report of HESCO was shared with the Complainant. Subsequently, the Complainant vide letter dated May 02, 2019 submitted its rejoinder over the report of HESCO and requested for a hearing in the matter for explanation for their point of view. Accordingly, a hearing was held on May 15, 2019 at NEPRA Head Office, Islamabad. The same was attended by both the parties (i.e. HESCO & PCL), wherein the representatives of PCL informed that the instant matter does not pertain to sale/purchase of Company. Moreover, the representatives of PCL further apprised that the Board of Directors (BoD) have not been changed since incorporation of the PCL. On the said arguments of PCL, the representative of HESCO submitted that if the Complainant provides some substantial proof in support of its claim w.r.t no change in ownership of the PCL, then they will review the case accordingly.

5. In view thereof, the representatives of PCL provided Form A and Form 29 of SECP for further processing of the case vide letter dated May 18, 2019 and further stated that the management/ownership has remained with Arif Habib Corporation Limited before and after the change of name of the Company hence updation of the security deposit is not applicable on them & only security deposit on incremental load of 40 MW is payable. Since the issue required further deliberations, therefore an interim order was issued on August 09, 2019 whereby HESCO was directed to issue demand notice for updation of Security Deposit on the incremental load of 40 MW and obtain an undertaking from the Complainant to the effect that they will accept the Decision/Order of NEPRA with respect to updation of Security Deposit regarding change of name of the Company from Al-Abbass Cement Industries Limited to Power Cement Limited.

6. In order to proceed further into the matter, PCL was asked to provide following details/information/documents. The details are as following:

Query: 1. When was the Al Abbass Cement Industries limited purchased by Arif Habib Corporation Limited. As per information, Arif Habib Corporation Limited purchased the Al-Abbass Cement Industries limited in the year 2009. Please verify.

Answer: 1. PCL is a group Company of Arif Habib Corporation Limited. The Company was taken over by Arif Habib Corporation Limited in the year 2010

Query: 2. Provide details of Board of Directors (BoD) prior to purchase of Al-Abbass Cement Industries limited by Arif Habib Corporation Limited.

Answer: 2. Details of BoD prior to purchase of Al-Abbass Cement by Arif Habib Corporation Limited:

Name of BoD	CNIC
Moomal Shunaid	42301-1965137-6
Asma Aves	42301-4308044-0
Javed Dawood Qadhaboy	42301-0829959-7
Momina Duraid	42301-9968054-6
Syed Salman Rashid	42101-0415902-9
Syed Aijaz Ahmed	42101-6357807-9
Aves Chochinwala	42301-8626910-9



Query: 3. Provide details of Board of Directors (BoD) of Al-Abbass Cement after purchase by Arif Habib Corporation Limited.

Answer 3. Details of BoD after purchase of Al-Abbass Cement by Arif Habib Corporation Limited:

Name of BoD	CNIC
Muhammad Kashif Habib	42000-0548038-3
Nasim Beg	42301-5558488-3
Fazlullah Shariff	37405-0332851-1
Muhammad Khubaib	42301-5462662-3
Syed Salman Rashid	42101-0415902-9
Syed Aijaz Ahmed	42101-6357807-9
Aves Chochinwala	42301-8626910-9

PCL further submitted that the identity of PCL i.e. SECP's Computer Generated Unique Identification Number (CUIN) and its National Tax Number (NTN) had remained the same prior to & after the change of name and the address of the PCL also remained the same. PCL has also been receiving and paying all the bills timely so the need of getting the name changed with HESCO became advertent to them and to HESCO either.

Query 4. From perusal of record it appears that the name of Al Abbass Cement Industries limited was changed to Power Cement Limited by SECP during 2013. However, you approached HESCO for change of name after lapse of 5 years in the year 2018. Please explain the reason behind the delay in approaching HESCO for change of name.

Answer 4. PCL further submitted that Arif Habib Corporation Limited held 69.81% of PCL shares by June 2013, while at the end of 2012 it held 65.03% shares of the PCL. This clearly shows that before and after change of name of PCL majority shares had remained in the hands of the Arif Habib Corporation Limited. Therefore, change in name had no relation with any change of shareholding during the then year.

7. In order to further clarify the matter, another hearing was held on November 18, 2019 at NEPRA Head Office, Islamabad which was attended by both the parties who reiterated their earlier submissions. In order to arrive at a final decision PCL was directed to provide further information relating to:

- i). Shareholding status of the Company i.e. Power Cement Limited for the years ending June 2009 to June 2013 (Form A and Form 29 SECP).
- ii). Agreement/Supporting Document regarding taking over of the Power Cement Limited by Arif Habib Corporation Limited.



8. In response, PCL vide its letter dated February 22, 2020 submitted incomplete information. In view of the said, PCL was once again advised vide NEPRA letter dated February 25, 2020 to provide following information/documents:

- i. Shareholding status of the Company i.e. Power Cement Limited (Al-Abbass Cement Industries Limited) for the year ending June 2009
- ii. Agreement/Supporting documents regarding taking over of the Power Cement Limited (Al-Abbass Cement Industries Limited) by Arif Habib Corporation Limited
- iii. In Form-A as of June 30, 2010 of Al-Abbass Cement Industries Limited, there is no mention of the particulars of the Holding Company, whereas the same is mentioned as Arif Habib Corporation Limited in Form-A for the years ended June 30, 2011, June 30, 2020. Please Explain.

9. In view of above, PCL vide its letter dated February 26, 2020 submitted pattern of shareholding, minutes of meeting dated October 07, 2010 but no document w.r.t taking over of PCL was provided. It is important to mention that copy of the said minutes placed on record reveals that the same was regarding appointment of the Directors, CEO and operational & financial improvements etc of the Company. Power Cement Limited further submitted that the Company was taken over by Arif Habib Corporation Limited in October 2010 which is mentioned in particulars of the holding Company in Form-A for the years ended June 30, 2011, June 30, 2012 etc. therefore, there is no mention of the same in the Form-A for the year ended June 30, 2010.

10. 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:

- i. Initially PCL was incorporated under the name of "Essa Cement Industries Limited". The name of the Company was changed to "Al-Abbass Cement Industries Limited" and the change of name certificate was issued by Securities & Exchange Commission of Pakistan (SECP) on May 19, 2005. The name of the Company was once again changed to "Power Cement Limited" and change of name certificate was also issued by SECP on March 13, 2013. PCL approached HESCO on June 20, 2016 with a request for change in name from M/s Al-Abbass Cement factory to Power Cement Ltd. and extension of the sanctioned load from 20 MW to 60 MW. In response, HESCO vide its letter dated July 31, 2018 acceded to PCL request for extension of load from 20 MW to 60 MW under B4 tariff.
- ii. HESCO issued a demand notice amounting to Rs. 195 Million (Rs. 3,560 per kW) for updated security deposit for 60 MW load.
- iii. PCL is of the view that since it had already paid the security deposit of 20 MW, therefore PCL is only liable to pay the security deposit for the incremental load of 40 MW. PCL further opines that the change




of name does not affect the rights of PCL, which it otherwise may be enjoying under the laws of land.

- iv. The Consumer Service Manual (CSM) envisages that *"In case of change of tariff category, shifting of site and change of ownership, the security amount shall be updated according to prevailing rates. In case of extension of load, the amount of security at prevailing rates shall be recovered to the extent of incremental load and not on entire load"*
- v. The documents provided by the Complainant reveal that Arif Habib Corporation Limited held 39.2% shares of PCL during Financial Year (FY) ending June 2009. Shareholding position of the Company for the period ending June 2010 was not provided by the Complainant. According to the Complainant, the Arif Habib Corporation Limited took over the Company in October 2010. This means that the Arif Habib Corporation Limited acquired/purchased majority shares before October 2010 and took over the management of the Company. The documents/information shows that Arif Habib Corporation Limited held majority shares in the FY ending June 2011 i.e. 61.13% and similarly it held majority shares for FY ending June 2012 & June 2013 as 65.03% & 69.81% respectively. Therefore, it is apparent from these figures that Arif Habib Corporation Limited became the major owner/shareholder of PCL after the year ending June 2010.

11. Foregoing in view, it is clear that change of ownership has occurred through change in share position of the Company. After obtaining majority shares; Arif Habib Corporation Limited changed the name of the Company from 'Al-Abbas Cement Industries Limited' to "Power Cement Limited". Therefore the Complainant's plea regarding change of name without payment of the updated security deposit is rejected. In view of foregoing, Power Cement Limited is required to pay the updated security deposit for change of ownership/name in accordance with the relevant provisions of Consumer Service Manual.

Islamabad, March 27, 2020

  
(Rehmatullah Baloch)  
Member (Consumer Affairs)  
