



National Electric Power Regulatory Authority
ISLAMIC REPUBLIC OF PAKISTAN
NEPRA Head Office Ataturk Avenue (East),
Sector G-5/1, Islamabad.
Ph:051-2013200, Fax: 051-2600021

**Consumer Affairs
Department**

TCD.05/ 4402 -2024
October 03, 2024

Chief Executive Officer (CEO),
LESCO, 22-A, Queen's Road Lahore.

COURT CASE

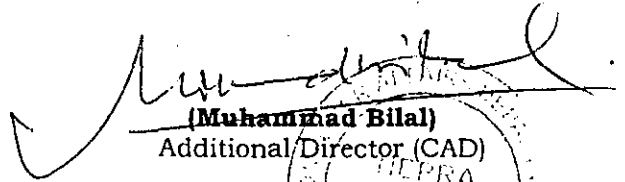
Subject: **DECISION IN THE MATTER OF WRIT PETITION NO. 4725/2024: M/S MASOOD SPINNING MILLS LIMITED VS. NEPRA ETC. REFERRED BY THE LAHORE HIGH COURT, LAHORE , UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST LESCO REGARDING DEMAND NOTICE FOR BALANCE AMOUNT OF RS. 75334891/- FOR DEPOSIT WORKS OF GRID STATION LESCO-NHQ-34007-01-24**

Please find enclosed herewith the decision of NEPRA Complaints Resolution Committee dated October 03, 2024, regarding the subject matter, for necessary action and compliance within thirty (30) days, positively.

Encl: As above

Copy to:

1. Chief Engineer/Customer Services Director,
LESCO, 22-A, Queen's Road, Lahore.
2. Manager (Commercial),
LESCO, 22-A, Queen's Road, Lahore.
3. Project Director (GSC),
34-Industrial Area, Gulberg-III, Lahore.
4. Rana Rizwan Sibghatullah, Incharge Complaint Cell,
LESCO, 22-A, Queens Road, Lahore.
5. Mr. Muhammad Ali Siddiqui,
Advocate Supreme Court, Zakriya Law Chambers,
2nd Floor, Golden Heights, Opp. High Court Public Gate,
Multan,
0322-5103403
6. Mr. Muhammad Ramzan Mushtaq,
Executive Legal & General Affairs,
M/s Masood Spinning Mills Limited
Postal Address: Mehar Manzil,
Outside Lohari Gate, Multan.


(Muhammad Bilal)
Additional Director (CAD)
NEPRA
Islamabad



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

Complaint No. LESCO-NHQ-34007-01-24

M/s Masood Spinning Mills Limited
through Mr. Muhammad Ramzan Muhshaq,
Executive Legal & General Affairs,
Mehr Manzil outside Lahori Gate, Multan.

.....Complainant

Versus

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

.....Respondent

Date of Hearing: February 14, 2024
February 29, 2024

On behalf of:

Complainant:

- 1) Mr. Muhammad Ali Siddiqui Advocate
- 2) Mr. Muhammad Ramzan Muhshaq

Respondents:

- 1) Barrister Qasim Asif Duggal Counsel
- 2) Mr. Muhammad Azam Malik Counsel
- 3) Hafiz Muhammad Hussain KEN (GSC), LESCO
- 4) Engr. Shahzad Shahid SDO (GSC), LESCO

Subject: DECISION IN THE MATTER OF WRIT PETITION NO. 4725/2024: M/S MASOOD SPINNING MILLS LIMITED VS. NEPRA ETC REFERRED BY THE LAHORE HIGH COURT, LAHORE UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST LESCO REGARDING DEMAND NOTICE FOR BALANCE AMOUNT OF RS. 75,334,891/- FOR DEPOSIT WORKS OF GRID STATION.

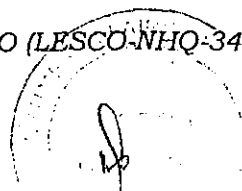
DECISION

In pursuance to the Order of Honorable Lahore High Court, Lahore dated January 23, 2024, in Writ Petition No. 4725/2024, this decision shall dispose of the complaint filed by M/s Masood Spinning Mills Limited through Mr. Muhammad Ramzan Mushtaq Executive Legal & General Affairs (hereinafter referred to as "the Complainant") against Lahore Electric Supply Company (hereinafter referred to as the "LESCO") under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "NEPRA Act").

2. NEPRA received a complaint from M/s Masood Spinning Mills Limited through Mr. Muhammad Ali Siddiqui Advocate dated Nil received in this office on January 17, 2024 wherein it was submitted that the Complainant applied to LESCO for extension of load under B-IV tariff category against an existing industrial connection. In response, the application was approved by LESCO during the year 2021 through a newly proposed independent 132 kV grid station for which a demand notice was issued by LESCO and the same was accordingly paid by the Complainant. Later, another demand notice amounting to Rs. 75,334,891/- was issued to the Complainant for payment during the year 2023 on pretext of the balance of payment while work related to grid station was already executed by LESCO.

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CRC Decision: M/s Masood Textile Mills vs LESCO (LESCO-NHQ-34007-01-24)



Being aggrieved with the second demand notice while premising his case on the approval accorded by LESCO, the Complainant prayed for withdrawal of the same.

3. The subject matter was taken up with LESCO and meanwhile, the same matter was also petitioned before the Honorable Lahore High Court, Lahore vide No. 4725/2024 by the Complainant which was disposed of vide an Order dated January 23, 2024 whereby the matter was referred to NEPRA for decision.

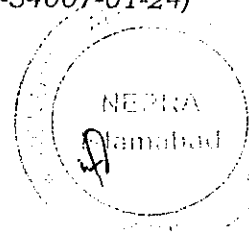
4. In order to comply with the directions of the Lahore High Court, a hearing was held on February 14, 2024 at NEPRA Head office, Islamabad whereby the matter was discussed in attendance of both parties. After detailed deliberations, LESCO was directed to submit its response on queries raised during the hearing including rationale behind the issuance of second demand notice and the rates of material applicable on April 06, 2023 and during the energization of grid station etc.

5. In response, LESCO in its written arguments inter alia submitted that:

- (i) The Complainant's cost deposit work was got completed by LESCO through borrowing of some material from MEPCO as the same was not available with LESCO for the energization of project during the prevailing adverse economic situation subject to a compulsory condition as envisaged in the approval that the Complainant will remain liable for payment of difference of expenditure as determined by LESCO at a later stage.
- (ii) The second demand notice was issued to the Complainant due to escalation of material rates during the financial closure after execution of the work related to independent 132 kV grid station and the same is in accordance with the terms & conditions as agreed by the Complainant during the approval of application. As per which tentative rates of the unavailable material were charged to the Complainant in the initial demand notice which got revised conforming to the applicable material rates after completion of the project and the difference was charged to the Complainant in the form of second demand notice.

6. The case has been examined in detail in light of the record made so available by parties, arguments advanced during the hearing and applicable law. Following has been observed:

- (i) The Complainant approached LESCO for extension of load against an existing industrial connection from 4800 kW to 11700 kW under B-IV tariff category in the name of M/s Masood Spinning Mills Limited located at 65 KM, Multan Road, Jambar, District Kasur. In response, LESCO approved the application on December 24, 2021 and allocated the additional/extended load of 6900 kW from independent 132 kV grid station. Accordingly, the demand notice amounting to Rs. 131,398,207/- was issued by LESCO on December 24, 2021 and the same was paid in full by the Complainant vide P.O. No. 05018759071 dated on January 06, 2022. Later, another demand notice amounting to Rs. 75,334,891/- dated December 26, 2023 was issued, however, the same was not paid by the Complainant while the work for construction & energization of 132 kV grid station was completed by LESCO prior to the issuance of second demand notice. The connection was energized on August 30, 2022.
- (ii) Perusal of the documentary evidence submitted by LESCO reveals that the substantial work related towards the energization of independent 132 kV grid station was completed by LESCO predominantly through the material already available with LESCO. The remaining work was later performed by LESCO during the year 2022 after borrowing of some material i.e. 132 Line CTs/PTs etc. from MEPCO on the pretext of its non-availability with LESCO material stores of which tentative rates were charged to the Complainant in the form of first demand notice. Following the financial close dated September 27, 2022, the Complainant was charged difference of capital cost of all the material in the

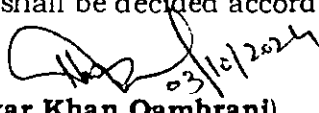


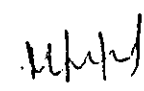
form of revised demand notice while the borrowed material making up significant part of the revision.


- (iii) According to time frame for new connection given in NEPRA Performance Standards (Distribution) Rules, 2005 read with the Consumer Service Manual (CSM), DISCOs are required to provide electricity connection within time period of (451) days from the date of payment of demand notice in case of any connection getting electricity supply on 132 kV voltage level. In the instant matter, the demand notice was paid by the Complainant in full on January 10, 2022 and the connection getting supply from 132 kV grid station should have been energized by April 06, 2023, however, the same was energized on October 11, 2022 by LESCO well before the cutoff date.
- (iv) Furthermore, the amended clause 2.4.6 of CSM stipulates that if escalation in cost of material takes place within the time period required for installation of connection, then in such a case additional cost due to escalation, shall be paid by the applicant. Since, CSM and Performance Standards (Distribution) Rules, 2005 also provide certain time period for installation of connection, hence, any financial revision of the fully paid demand notice on account of the cost escalation materializing before April 06, 2023 within the set time frame i.e. 451 days, required for the installation of connection after issuance of demand notice can be considered justified. However, according to same clause, no escalation charges shall be applicable if enhancement in rates of material takes place after the lapse of time period given for installation of connection. Thus, penalizing the Complainant through revised demand notice dated December 26, 2023 apparently based on escalated material cost in effect after lapse of (451) days since payment of first demand notice during January, 2022 is unjustified.
- (i) The record reflects that the connection was energized by LESCO on October 11, 2022 ahead of the cutoff date for installation of connection i.e. April 06, 2023 which, thus, provides logical reasoning and rationale for not including any cost escalation of material allocated by LESCO through its own material stores after financial close i.e. September 27, 2022. However, the revision of rates for the borrowed material from MEPCO can be considered valid and should be charged from the Complainant according to the applicable rates as April 06, 2023 or the actual date of return of material to MEPCO whichever is earlier.

7. Foregoing in view, LESCO is directed to revise the second demand notice No. 4769-64 dated December 26, 2023 by charging difference of cost of the borrowed material only as per the rates applicable on April 06, 2023 (i.e. the date till when LESCO was obligated to install the connection) or the actual date of return of material to MEPCO whichever is earlier: while the revision of cost of its own material be made in accordance with rates applicable on financial closure dated September 27, 2022. Compliance report be submitted within (30) days.

Note: This decision is applicable only for the instant case and shall not be considered as precedent for other similar cases. Complaints in such like cases, if received in future shall be decided accordingly.


(Lashkar Khan Qambrani)
Member Complaints Resolution Committee/
Director (CAD)


(Moqem Ul Hassan)
Member Complaints Resolution Committee
Assistant Legal Advisor (CAD)


(Naweed Ulahi Shaikh)
Convener Complaints Resolution Committee/
Director General (CAD)

Islamabad, October 03, 2024