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National Electric Power Regulatory Authority

Islamic Republic of Pakistan

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Registrar

No. TCD 01/

4838-40

May 29, 2012

Chief Executive Officer
Peshawar Electric Supply Company (PESCO)
WAPDA House
Sakhi Chashma Shami Road
Peshawar

Subject: **DECISION OF THE AUTHORITY IN THE MATTER OF A REVIEW PETITION
FILED BY PESHAWAR ELECTRIC SUPPLY COMPANY (PESCO) AGAINST THE
DECISION OF CONSUMER AFFAIRS DIVISION REGARDING COMPLAINT FILED
BY MR. SALAHUDDIN V/S PESCO**
Complaint # PESCO-81/2011

Enclosed please find herewith decision of the Authority along with Dissenting Note of Mr. Shaukat Ali Kundi, Member NEPRA in the subject matter for compliance within 30 days of the receipt of this letter.

Encl: As above

— *Sd* —
(Syed Safeer Hussain)

Copy:-

1. C.E/Customer Services Director
Peshawar Electric Supply Company (PESCO)
WAPDA House
Sakhi Chashma Shami Road
Peshawar
2. Mr Salahud Din Khan (Advocate)
R/o House No 121, Street No 1
F-11/1, Gulshan Khudadad
Islamabad

May 29, 2012

[Signature]
Registrar



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

Complaint No: PESCO-81- 2011

Peshawar Electric Supply Company

Petitioner

Versus

Mr. Salahuddin

Complainant

Date of Hearing: February 14, 2012

Date of Decision: April 10, 2012

Before :

1. Mr. Ghiasuddin Ahmed (Acting Chairman)
2. Mr. Shaukat Ali Kundi (Member)
3. Mr. Habibullah Khilji (Member)

On behalf of Petitioner:

- 1) Mr. Fida Ahmed Khan, Chief Engineer/CSO.
- 2) Mr. Nadeem Anwar, Manager Operation, Bannu.
- 3) Mr. M. Zubair Khan, Deputy Manager (Operation), City, DI Khan.
- 4) Mr. Ishtiaq Ali, Deputy Manager (Operation) Tank
- 5) Mr. Arif Mehmood Sadozai, Deputy Manager (Operation) Rural DI Khan

On behalf of the Complainant: Mr. Salahuddin Advocate

DECISION OF THE AUTHORITY IN THE MATTER OF A REVIEW PETITION FILED BY
PESHAWAR ELECTRIC SUPPLY COMPANY (PESCO) AGAINST THE DECISION OF THE
AUTHORITY ON COMPLAINT FILED BY MR SALAHUDDIN

DECISION

1. This decision shall dispose of a review petition filed by Peshawar Electric Supply Company (PESCO) (hereinafter referred as "petitioner") against the decision of Consumer Affairs Division in the matter of Mr. Salahuddin Khan, Advocate
2. The review petition was filed by the petitioner against the decisions of Consumer Affairs Division in four cases. The petitioner has raised the following contentions in the review petition:
 - i) "The complainant has taken direct connection from LT Line of PESCO and assessments Charges leveled upon the complainant. The case of FIR was properly reported by the PESCO field formation staff to concerned Police Station but the police authorities are not registering proper FIR against the complainant due to some other facts on the grounds.

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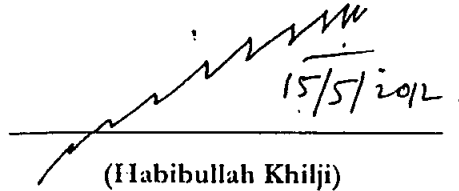
Moreover there are huge numbers of such like cases which are also difficult for police authorities to register FIRs and maintain it.

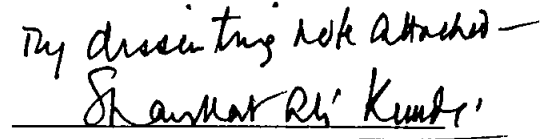
- ii) As per CSM Clause 9.1(III), PESCO shall be authorized to recover its loss by raising detection bills as per its own procedure, hence the detections bills has been made accordingly.
 - iii) The report of field formation to concerned police station may be considered as FIR, as in the said decision PESCO will sustain not only revenue loss but it will also open a Pandora Box for the PESCO as numerous cases exist who are approaching to NEPRA for their unjustified relief on the same grounds"
3. A hearing into the matter was conducted on 14.02.2012 wherein the representatives of the petitioner as well as the complainant Mr. Salahuddin Advocate were present.
 4. The representatives on behalf of the petitioner in the hearing submitted that electricity supply of Mr. Salahuddin Advocate was permanently disconnected due to default and equipment removed on January 26, 2008. At that time, an amount of Rs. 61684/- was outstanding against him as arrears. The complainant is involved in theft of electricity therefore, to recover the loss, detection bills were charged to the complainant however no payment to-date has been made. At present electricity at the premises is being supplied from its neighbor which is also illegal. Theft of electricity by Mr. Salahuddin Advocate was reported to police on May 27, 2008. Police has also registered an FIR against the complainant on September 09, 2011. Copies of the letter written to police and FIR have been provided to Consumer Affairs Division at the start of hearing. PESCO has also won a case against the complainant in the Court of District Judge, D I Khan.
 5. Mr. Salahuddin, Advocate in his rebuttal stated that he has shifted to Islamabad and his electricity connection was permanently disconnected by the PESCO on January 26, 2008. PESCO is still billing his premises which is illegal as due to disconnection no electricity was used at his premises. He has offered PESCO that he is willing to pay the arrears if a correct bill is issued by excluding all detections but PESCO has not responded. He admitted that his premises was rented out one and half month back and the tenant is taking electricity from his neighbor. As regards the case decided by the Court of District Judge, D I Khan, the same has no relevance with the instant issue as the same pertains to the period when his connection was energized and further he will pay the amount as per the directions of the Court.
 6. Petitioner (PESCO) further submitted that the complainant is involved in theft of electricity by using direct hook. There are so many such like cases where theft is taking place but police is reluctant to lodge FIR despite best efforts by PESCO officials.
 7. Having gone through the respective submissions of the parties, the Authority has observed that registration of FIRs is though difficult as the police is not cooperating with the DISCOs but it is mandatory as per the provision of Consumer Service Manual and the petitioner should try their best to lodge FIRs against the consumers involved in theft of electricity. The Authority is also of the view that PESCO is equally responsible for taking lenient approach towards lodging of FIRs. In the instant case, FIR was lodged by PESCO after the receipt of complaint from NEPRA.
 8. The Authority has further observed that in this case, connection was permanently disconnected, Equipment Removal Order (ERO) implemented and P-Disc code allotted as such the complainant is no more consumer of the petitioner. PESCO has charged detection bills after the ERO taking the plea that the complainant was involved in theft of electricity. FIR has been lodged by PESCO after receipt of complaint from NEPRA. In addition to that, no solid proof has been given by PESCO that the complainant was involved in theft of electricity.
 9. The Authority has further observed that detection bills charged to the complainant are on higher side and do not correspond to billing history and sanctioned load of the complainant. PESCO is not justified to raise such high value detection bills even if the complainant was using electricity directly. From the scrutiny of the record provided by PESCO it reveals that average consumption of Mr. Salahuddin was

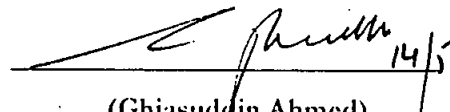
224 units per month whereas PESCO has charged after permanent disconnection, an average of 1035 units per month as detection bill which is not justified.

10. In view of the foregoing, the Authority has decided to modify the impugned decision as under:

The complainant is liable to pay the amount of Rs.61684/- which was outstanding against him at the time of ERO on January 26, 2008. In addition to this amount i.e. Rs.61684/-, detection bill @ 224 units per month be charged to the complainant from the date of ERO till the date of receipt of complaint by NEPRA i.e. May 09, 2011. Revised bill accordingly be issued to the complainant for payment. The complainant be provided electricity connection as per the policy after recovering the arrears in case the complainant is interested for seeking reconnection/new connection.


15/5/2012
(Habibullah Khilji)
Member

My dissenting note attached -

(Shaukat Ali Kundi) 25.05.2012
Member


14/5
(Ghiasuddin Ahmed)
Acting Chairman

**DISSENTING NOTE OF MEMBER LICENSING REGARDING DECISION OF THE
AUTHORITY ON THE REVIEW REQUEST FILED BY PESCO AGAINST THE
DECISION OF CONSUMER AFFAIRS DIVISION IN THE MATTER OF MR
SALAHUDDIN V/S PESCO**

I dissent to the majority decision on the review petition filed by PESCO in the matter of Mr. Salahuddin Vs PESCO for the following reasons:

- i) Once the Equipment Removal Order (ERO) is issued, and the equipment removed and P-Disc code allotted to the complainant, he ceases to be the consumer of PESCO. PESCO persistently issued bills to him for several months which is neither tenable nor prudent.
- ii) The complainant has been issued detection bills thirty six (36) times for a total period of fifty (54) months. This testifies that the PESCO staff was not vigilant to prevent/control of theft, if any.
- iii) PESCO has failed to produce any ample evidence to substantiate that the complainant was in fact stealing energy incessantly.
- iv) The mandatory provisions of registration of FIR as provided in Consumer Service Manual have not been adhered to by PESCO. FIR was got registered by PESCO on 09-09-2011 after the receipt of complaint to NEPRA i.e 09-05-2011. If the complainant was involved in direct theft of electricity then FIR should have been lodged soon after detecting the theft.
- v) Consumer Service Manual is very clear in the matter. Charging of detection bills prior to registration of FIR has no justification and is illegal.

Under these circumstances I am unable to hold that PESCO is justified in charging detection bill to the complainant for illegal abstraction of electricity and therefore uphold the decision of Consumer Affairs Division Nepa which has been impugned by PESCO.

Shaukat Ali Kundi
(Shaukat Ali Kundi) 25.05.12

Member (Licensing)