



Registrar

# National Electric Power Regulatory Authority Islamic Republic of Pakistan

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No. NEPRA/DG(CAD)/TCD 01/7/7-20


February 10, 2021

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

Subject: **DECISION IN THE MATTER OF COMPLAINT FILED BY MR. RAB NAWAZ KHAN KHATTAK S/O UMAR KHITAB IN PURSUANCE OF THE ORDERS OF THE HONORABLE PESHAWAR HIGH COURT, PESHAWAR IN WRIT PETITION NO. 2904-P/2020: RAB NAWAZ KHAN KHATTAK VS NEPRA & OTHERS**  
PESCO-85/09/2020

Enclosed find herewith the Decision of Member (Consumer Affairs) dated 08.02.2021 (04 Pages) regarding the subject matter for necessary action and compliance within thirty (30) days, please.

Encl: As above

  
18/2/21.  
(Iftikhar Ali Khan)  
Director  
Registrar Office

Copy to:

- i. Chief Commercial Officer, PESCO,  
PESCO Head Quarters, WAPDA House,  
Sakhi Chashma Shami Road, Peshawar.
- ii. Incharge Complaint Cell, PESCO,  
PESCO Head Quarters, WAPDA House,  
Sakhi Chashma Shami Road, Peshawar.
- iii. Mr. Rab Nawaz Khan Khattak S/o Umar Khitab  
President,  
Anjuman-e-Imdad-Bahmi Malgari Zamindaran,  
Akora Seeds Company, Qureshi Market,  
Akora Khattak, District Nowshera.



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

**Complaint No. PESCO-85/09/2020**

**Mr. Rab Nawaz Khan Khattak S/o Umar Khatab**  
President, Anjuman-e-Imdad-e-Bahmi Malgari Zamindaran,  
Akora Seeds Company Qureshi Market,  
Akora Khatak-District Nowshera.

..... Petitioner

**Versus**

**Peshawar Electric Supply Company Limited (PESCO)**  
WAPDA House, Sakhi Chasma,  
Shami Road, Peshawar

..... Respondent

**Date of Hearing:** September 29, 2020

**Date of Decision:** February 18, 2021

**On behalf of**

**Petitioner:**

- 1) Mr. Rab Nawaz Khan Khattak, President
- 2) Mian M. Ayaz, Chairman
- 3) Mr. Noor Muhammad, Vice President
- 4) Mr. Yousaf Khan

**Respondent:**

- 1) Mr. Noor Hussain Shah, SDO (Akora Khattak)
- 2) Mr. Hassan Bilal, Revenue Officer
- 3) Mr. Muhammad Sarami

**Subject:** **DECISION IN THE MATTER OF COMPLAINT FILED BY MR. RAB NAWAZ KHAN KHATTAK S/O UMAR KHITAB IN PURSUANCE OF THE ORDERS OF THE HONORABLE PESHAWAR HIGH COURT, PESHAWAR IN WRIT PETITION NO. 2904-P/2020: RAB NAWAZ KHAN KHATTAK VS NEPRA & OTHERS**

**DECISION**

This decision shall dispose of the complaint of Mr. Rab Nawaz Khan Khattak S/o Umar Khatab (hereinafter referred to as the "Petitioner" or the "Complainant") filed under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "NEPRA Act") against Peshawar Electric Supply Company Limited (hereinafter referred to as "PESCO" or the "Respondent") pursuant to the Orders of the Honorable Peshawar High Court, Peshawar dated 6<sup>th</sup> July 2020 in Writ Petition No. 2904-P/2020.

2. Brief facts of the case are that the Honorable Peshawar High Court, Peshawar, vide its Order dated 7<sup>th</sup> March 2019 in Writ Petition No. 2904-P/2020, disposed of the petition in light of directions mentioned in Judgment of the Court in Writ Petition No. 5673-P/2018 dated 7<sup>th</sup> March 2019, whereby NEPRA was directed by the Honorable High Court to entertain the complaint of the Petitioners under Section 39 of the NEPRA Act, and decide the same in accordance with law after receipt of complaint.

3. In pursuance of the Order of the Honorable High Court, the Petitioner, on behalf of 21 other petitioners/complainants, approached NEPRA vide letter dated 26<sup>th</sup> August 2020, along with a copy of the petition and the Order of the Honorable High Court. Main contents of the complaint/petition are as under:

- i. That the Petitioners are agriculturists and irrigate their land through agricultural tube-wells under Tariff D-2. They and their tenants had been paying their electricity bills regularly.
- ii. That PESCO suddenly charged additional amount to the Petitioners as arrears, which was in fact reason of some Audit Para; against which NEPRA directed PESCO to charge all the agriculturists having the facility of tube-wells under Tariff D-1(a).
- iii. That not only the Petitioners, but each and every agriculturist of the area, has been made to face the problem of illegal and unjustified over billing, as PESCO has debited unjustified, baseless and belated audit paras in the bills of the consumers.
- iv. That PESCO has raised numerous audit paras, thereby directing its Revenue Officers to debit unjustified amounts against the agricultural tube-well connections, even where ToU meters have not been installed.
- v. That the Petitioners approached PESCO for resolution of their grievances, however, PESCO has failed to resolve their issue and is regularly sending arrears in the bills, and has also threatened the Petitioners to disconnect their supply.
- vi. That PESCO is not lawfully justified to recover its losses from the consumers which have been incurred due to their own inaction, mismanagement and incompetency. The application of correct tariff is the responsibility of PESCO and consumers cannot be penalized for failure of its proper application. The audit paras/reports are a matter of the department and the audit authority cannot authorize the department to charge the Complainants with the tariff with retrospective effect.
- vii. That mainly the agriculturists leased out their lands to lessee/ijaradaar for specific periods. PESCO has come up with penal amount even in cases where real consumers have already left.
- viii. That although the Petitioners are paying all the running bills, however, PESCO is adding interest on the non-paid amount every month which has raised the amounts of bills by more than double.
- ix. That it is prayed that the arrears raised on observation of Audit against the connections of the Petitioners on account of wrong application of tariff and by adding GST in lump-sum may be declared as illegal and without jurisdiction. PESCO may be directed to withdraw the arrears charged against the Petitioners on observation of Audit, being illegal and unjustified.

4. In order to proceed further and investigate the case in light of the directions of the Honorable High Court, a hearing was held on 29<sup>th</sup> September 2020 at NEPRA Head Office, Islamabad, wherein both the parties participated and advanced their arguments. During the hearing, the representatives of PESCO submitted that the Petitioners have been billed on the observation of Audit from April 2019 to June 2019 on account of fixed charges/MDI which were omitted from billing from January 2019 to January 2020 (13 months). The MDI was erroneously not billed to the consumers, however, on observation of Audit, the same was billed accordingly. Further, the consumers have paid the amount to PESCO after decision of the Honorable District & Sessions Judge, Nowshera, and they are only creating hurdles in payment.

5. In light of the discussion during the hearing, PESCO representatives were directed to provide the following information:

- i. Number of affectees due to non-application of correct tariff and their details.
- ii. Verification of each case individually w.r.t whether the Petitioners in the instant case were the occupants of the premises during the disputed period (January 2019 to January 2020) or otherwise.

6. In response, PESCO, vide its letter dated 9<sup>th</sup> December 2020, provided the required information. Further, PESCO submitted that the matter is not of correct tariff, and the same relates to fixed charges/MDI not billed in the bills of the consumers for 13 months (January 2019 to January 2020) which was debited after observation of the Audit party. PESCO submitted a list of the affectees along with relevant details. A brief illustration of the same is as under:

Sr.#	Sub-Division	No. of consumers / affectees	Audit Note No.	Total recoverable amount (Rs.)
1	Jehangira	83	04	1,502,748/-
2	Akora Khattak	433	05	7,437,599/-
3	Cantt. – I	93	02	1,499,706/-
4	Cantt. – II	99	03	1,694,181
Total		708		12,134,234/-

PESCO also submitted that the occupants are same as in January 2019. Further, 845 consumers have paid the amount to PESCO and they are satisfied from the charges debited against them. However, only the Petitioners have grievances regarding the said recovery by PESCO. Moreover, the instant Petitioners have already got relief in their previous complaint with NEPRA. No such issue has been raised by any of the other occupants in the area(s).

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

- i. The Petitioners are agricultural consumers of PESCO under Tariff D-2.

- ii. The Petitioners are of the view that PESCO charged additional amount to them as arrears, on observation of Audit, due to which the Petitioners have been made to face the problem of illegal and unjustified over billing.
  - iii. PESCO is of the view that the matter relates to fixed charges/MDI not billed in the bills of the consumers for 13 months (January 2019 to January 2020) which was debited after observation of the Audit party. The consumers were subsidized for fixed charges/MDI recorded upto the end of year 2018, and from 1<sup>st</sup> January 2019, the subsidy was withdrawn.
  - iv. The fixed charges/MDI was erroneously not billed to the consumers, however, on observation of Audit, the same was billed w.e.f. January 2019 to January 2020 (13 months).
  - v. PESCO also reported that the current occupants are same as in January 2019. All the other occupants are satisfied from the charges debited against them, and only the instant Petitioners have grievances regarding the said recovery by PESCO.
  - vi. The Consumer Service Manual, Clause 7.5.3, stipulates that fixed charges/power factor penalty, where applicable, shall not be charged for more than six (06) months retrospectively (if already not charged).
8. Foregoing in view, PESCO is directed to recover fixed charges/MDI retrospectively from the Petitioners for six (06) months, i.e. from August 2019 to January 2020.
9. Compliance report be submitted within thirty (30) days.

  
(Rehmatullah Baloch)  
Member (Consumer Affairs)

Islamabad, February 08 , 2021.