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No. NEPRA/DG(CAD)/TCD-08 /40095-99


November 2, 2021

Chief Executive Officer
Quetta Electric Supply Company (QESCO),
Zarghoon Road, Quetta.

Subject: DECISION IN THE MATTER OF COMPLAINT FILED BY MR FASIHULLAH UNDER SECTION 39 OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST QESCO REGARDING PROVISION OF ELECTRICITY CONNECTION FOR IQBAL CENTER SIRKI ROAD QUETTA
QESCO-QET-4672-21

Enclosed find herewith the Decision of Member (Consumer Affairs) dated November 1, 2021 (03 Pages) regarding the subject matter for necessary action and compliance within twenty (20) days, please.

Encl: As above


(Iftikhar Ali Khan)
Director

Copy to:

- 1) C.E/ Customer Services Director,
Quetta Electric Supply Company (QESCO),
Zarghoon Road, Quetta.
- 2) Chief Engineer (Planning)
Quetta Electric Supply Company (QESCO),
Zarghoon Road, Quetta.
- 3) Mr. Muhammad Rehan, (AD -CAD),
NEPRA Regional Office, Room#1, 2nd Floor,
Rehman Plaza 7A, Opp. Nadra Office,
Model Town, Hali Road, Quetta.
- 4) Mr. Fasihullah
Shop# 1-27/34, Shahrae Iqbal, Quetta.
Contact# 0315-8000379, 0300-8380262



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NEPRA)

Complaint No. QET-4672-21

Mr. Fasihullah

Shop# 1-27/34 Shahrae Iqbal, Quetta.
Contact# 0315-8000379, 0300-8380262

.....Complainant

Versus

Quetta Electric Supply Company (QESCO)
Zarghoon Road Quetta.

..... Respondent

Date of Hearing:

1. June 04, 2021
2. September 03, 2021

On behalf of:

Complainant: Mr. Fasihullah, Co-Owner FKB Constructions and Builders

Respondent:

1. Mr. Muhammad Naeem Kakar, Chief Engineer (Planning)
2. Mr. Qamar ul Hassan, Deputy Director (Planning)
3. Mr. Abrar Ahmed Sheerazi, Deputy Director (Technical)
4. Mr. Ali Murad Khan, Assistant Manager (CS)
5. Mr. Muhammad Malik, SDO Mehaddar

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Decision

Through this decision, the complaint filed by Mr. Fasihullah (hereinafter referred to as the "Complainant") against Quetta Electric Supply Company (hereinafter referred to as the "Respondent" or "QESCO"), under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (hereinafter referred to as the "NEPRA Act"), is being disposed of.

2. NEPRA received the subject complaint, wherein the Complainant submitted that they had constructed a plaza by the name of Iqbal Center at Sirki Road, Quetta and required electricity connection for the same. Upon approaching QESCO, they were refused to be provided with electricity connection. The Complainant requested for provision of connection at the earliest.

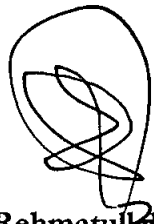
3. The matter was taken-up with QESCO for submission of parawise comments/report. QESCO submitted that electrification of Iqbal Center is pending due to violation of building code of Quetta Metropolitan Corporation by the Complainant which restricts private sector from constructing plazas above 30 feet height. QESCO further reported that the issue of height of plazas above 30 feet is under adjudication before High Court of Balochistan.

4. In order to proceed further into the matter, an online hearing was held on June 04, 2021 wherein both the parties (i.e. QESCO and the Complainant) participated. The parties were informed that in order to arrive at an informed decision a site inspection is required. Another hearing was held on September 03, 2021 at NEPRA Regional Office, Quetta, wherein both the parties (i.e. QESCO and the complainant) participated and advanced their arguments. Representatives of Metropolitan Corporation Quetta (MCQ) were also invited for the scheduled hearing but they did not attend the same. A site inspection was also conducted on September 03, 2021 in presence of both the parties. The site plan was approved by the MCQ for Lower Basement, Upper Basement, Ground Floor, First Floor and Second Floor, having 30 feet height above ground level. However during the site inspection it was revealed that the applicant has constructed 1 more floor i.e. 3rd floor and a mosque above 3rd floor having height of about 45 feet above ground level.

5. 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 Complainant constructed a building/plaza at Sirki Road, Quetta having height exceeding 30 feet, whereas the layout plan was approved by the MCQ for 30 feet height.
- ii. The Complainant approached QESCO for provision of connection for the building/plaza, however, the same was refused by QESCO on the ground that the height of the plaza is more than 30 feet, i.e. limit as per law.
- iii. During the hearing, upon query, it was apprised by QESCO representatives that various other buildings in Quetta exceeding 30 feet height are already energized.
- iv. On a query, representatives of QESCO informed that they are unable to provide connection due to order of the Balochistan High Court. Directions of the Honorable High Court in CP No. 804/2020 are as under:
 - a) No building in the Quetta City shall be allowed to be constructed without approved building plan.
 - b) No residential building shall be allowed to be converted into commercial building.
 - c) No permission for construction of commercial building shall be granted in the residential area.
 - d) All ongoing projects in the city which are being constructed in violation of building code shall be halted till further order.
 - e) The Commissioner Quetta shall direct the Deputy Commissioner, Quetta that after obtaining a details regarding conversion of residential building into commercial buildings, necessary notices shall be issued to the owners for regularization of respective building according to law.

- v. The order of the Honorable High Court passed in CP No. 804/2020 has been reviewed whereby it has been revealed that the Honorable Court has not restricted QESCO from provision of electricity connection. The Honorable Court has further directed QESCO, WASA, SSGC and PTCL to ensure that no owner of commercially converted building shall be allowed for use of public utilities on domestic rates which are meant for residential purpose only.
- vi. Earlier in a similar nature of case i.e. Haji Sahib Khan (ZS Plaza) Vs. QESCO, NEPRA vide decision dated January 05, 2021 directed QESCO for provision of connection on the ground floor only. The same decision was implemented by QESCO. Recently another complaint titled Ms. Zeba Bakhtiyar vs. QESCO has been decided by NEPRA wherein QESCO has been directed to provide electricity connection(s) to the Complainant upto ground floor including basements.
- vii. According to the Consumer Eligibility Criteria (2003), every person has right to be provided with electric power services subject to the fulfillment of the eligibility criteria.
- viii. Provision of electricity is a Fundamental Right of all citizens under Article 9 and 14 of the Constitution of Islamic Republic of Pakistan. 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.
6. Foregoing in view, till the issue is decided by the concerned Civic Agency regarding height of the buildings in Quetta, QESCO is directed to provide electricity connection(s) to the Complainant upto Ground Floor including Basement(s) subject to completion of codal formalities. QESCO may obtain an undertaking from the Complainant before provision of connection(s) to the effect that the electricity connection(s) shall not be extended to the upper floors of the building and in case of any violation, QESCO may disconnect the electricity supply. This decision is applicable in the instant case only, and the same shall not be taken as precedent in other likewise cases which shall be decided on case-to-case basis keeping in view the ground realities.
7. Compliance report be submitted within twenty (20) days.


(Rehmatullah Baloch)
Member (Consumer Affairs)

Islamabad, November 01, 2021