



Before the Appellate Board
National Electric Power Regulatory Authority
(NEPRA)
Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-004/POI-2015/ *591-595*

June 18, 2015

- | | |
|---|---|
| 1. Zahid Jameel,
S/o Abdul Ghani,
Prop: M/s Abdul Ghani Steel Mills,
Shadi Pura, Bund Road, Lahore | 2. The Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Tahir Amin Ch,
Advocate High Court,
Atif Centre, 3 & 4 M,
1-Turner Road, Lahore | 4. Ch. Khalil Ur Rehman,
Advocate High Court,
Haji Chambers, 4-Mozang Road,
Lahore |
| 5. The Assistant Manager/SDO,
LESCO Ltd,
Shalamar Sub Division,
Lahore | |

Subject: Appeal Titled Abdul Ghani Steel Mills Vs. LESCO Against the Decision Dated 24.12.2014 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore

Please find enclosed herewith the order of the Appellate Board dated 18.06.2015, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(M. Qamar Uz Zaman) 1

No. NEPRA/AB/Appeal-004/POI-2014/ *596*

June 18, 2015

Forwarded for information please.

1. Registrar
2. Director (CAD)
3. Electric Inspector/POI, Lahore Region
4. Master File

CC:

1. Chairman
2. Vice Chairman/Member (CA)
3. Member (Tariff)
4. Member (M&E)
5. Member (Licensing)

M. Q. Zaman
Member Appellate Board

22/06/15

- D/Rg-I
- m/f

Registrar	6716
DY No.	22-06-15
Date	22-06-15



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-004/POI-2015

Abdul Ghani Steel Mills through Zahid Jamil (Proprietor) S/O Abdul Ghani, Abdul Ghani
resident of Shadipura, Bund Road, Lahore.

.....Appellant

Versus

Lahore Electric Supply Company Limited

.....Respondent

Date of Hearing:

08/06/2015

For the appellant:

Tahir Amin Ch. Advocate
Zahid Jamil
Al Haj Muhammad Ashraf

For the respondent:

Ch. Khalil ur Rehman Advocate
Muhammad Iqbal Bhatti SDO LESCO

ORDER

1. This order shall dispose of appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 24.12.2014 of the Provincial Office of Inspection/Electric Inspector Lahore Region, Lahore (hereinafter referred to as POI)





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under Section 38(3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as "the Act").

2. Brief facts giving rise to the instant appeal are that LESCO is a licensee of National Electric Power Regulatory Authority (hereinafter referred to as NEPRA) for distribution of electricity in the territory specified as per terms and conditions of the license and the appellant is its industrial consumer bearing Ref No.24-1314-90051003 with the sanctioned load of 258 kW under B-2 tariff.
3. The appellant being aggrieved with the detection bill of Rs.10,276,432/- for 1,299,824 net units for the period from December 2007 to October 2009, submitted an application dated 04.06.2013 to POI and prayed as under:

"It is therefore most respectfully prayed that the above titled application may kindly be accepted and impugned detection bill of 1299824 units amounting of Rs.1,02,76432/- for the period of Dec 2007 to Oct 2009 may kindly be declared illegal, unlawful, null and void and unjustified which is based upon the malafide intention of the respondents.

It is also prayed that respondents may kindly be ordered to restore the electric connection of the applicant/ Petitioner and installed the electric meter which was removed by the respondent No.2 to 4 on 16-11-2009 illegally and unlawfully.

It is further prayed that respondents may kindly be ordered to restore the self purchased transformer which was removed by the respondent No. 2 to 4 illegally and unlawfully without any justification.

Any other relief, which is Honourable Court, deems fit and proper may also be granted to the petitioner."

4. In response LESCO contested the case before POI and pleaded that the detection bill of Rs.10,276,432/- was rightly charged to the petitioner as his meter was found tampered during the checking by M&T LESCO on 17.11.2009. LESCO prayed that the appeal of the appellant be dismissed.



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5. The matter was decided by POI vide his decision dated 24.12.2014 and the operative portion of the decision is reproduced below:

"Summing up the foregoing discussion, it is held that the impugned detection bill amounting to Rs.10,276,432/- as cost of 1,299,827 units for the period from 12/2007 to 10/2009 is void, unjustified and of no legal effect; therefore, the petitioner is not liable to pay the same. However, the respondents are allowed to charge a revised detection bill for the period from 11/2008 to 10/2009 (12 months) on the basis of the healthy average monthly consumption of 65,453 units per month recorded during the period from 11/2007 to 10/2008 after excluding the already charged units during the same period. The respondents are directed to over-haul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills. They are also directed to restore the electric supply of the petitioner after getting deposited the revised detection bill.

The petition is disposed of in above terms."

6. Being aggrieved with the above decision dated 24.12.2014 of POI, appellant has filed the instant appeal through Tahir Amin Ch. Advocate before NEPRA under section 38 (3) of the Act. In the appeal, the appellant prayed as under:

i. "In view of the above submissions, it is most respectfully prayed that decision dated 24-12-2014 regarding imposing detection bill of 12 months to the appellant may kindly be set aside, in interest of justice.

It is further prayed that electricity connection of Abdul Ghani Steel mills Shadipura, Band Road, Lahore may kindly be restored without imposing any penalty of detection bill, in the interest of justice.

Any other relief which this Honourable Court deems fit and proper may also be awarded."

7. In response to the instant appeal a notice was issued to LESCO for submission of reply/parawise comments which were not submitted.



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8. The hearing of appeal was fixed for 8.6.2015 in Lahore and due notices were sent to the parties. On the date of hearing, Mr. Tahir Amin Ch. Advocate appeared for the appellant and Ch. Khalil ur Rehman, Advocate represented LESCO. Learned Counsel for appellant re-iterated the stance taken in the memo of the appeal. He submitted that a quarrel took place on 28.09.2009 with the result that, one Muhammad Rafique threw bricks and stones due to which the meter of the appellant got damaged and a complaint dated 28.09.2009 was lodged with Police Station Bhagbanpura Lahore. Learned Counsel stated that an intimation thereof was also given to SDO and XEN concerned. According to the learned counsel for the appellant the site was visited by SDO and XEN LESCO and they declared that the meter was working correctly. Learned Counsel for the appellant averred that on 29.09.2009 a notice was issued by SDO LESCO Shalimar subdivision for replacement of the meter due to old design but inspite of the efforts of the appellant demand notice for replacement of the meter was not issued by LESCO. Learned counsel for the appellant contended that on 16.11.2009 SDO LESCO Shalimar subdivision in his absence illegally and unlawfully disconnected the supply of the electricity and removed the electricity meter with malafide intention and without any notice, as required under section 24(1) of electricity Act 1910. He averred that FIR No.1261/2009 was lodged by LESCO against the appellant but he was acquitted by the competent court of jurisdiction. Learned counsel for the appellant further stated that on 02.12.2009 the appellant filed a suit in Civil Court for declaration and injunction. He contended that during the pendency of the suit a detection bill of Rs.10,276,432/- for 1,299,824 net units for the period from December 2007 to October 2009 was issued by LESCO against the appellant. According to the learned counsel for the appellant, Civil Court vide the order dated 15.12.2009 directed for deposition of half amount of the detection bill which was challenged by the appellant before Additional District Judge Lahore. Learned counsel for the appellant further submitted that the AD Judge Lahore vide the order dated 19.03.2010 directed LESCO to issue average bill against which a revision petition was filed by the appellant before Lahore High Court Lahore and the honorable high court vide the order dated 26.03.2010 directed the appellant to deposit the bill in three equal installments. The counsel for the appellant averred that due to poor financial condition no amount could be deposited by the appellant and therefore, his factory is under disconnection of electricity for the last four years. Learned counsel for appellant argued that being a B2 industrial connection the

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monthly reading of the meter was checked by SDO and no discrepancy was noticed by him. He informed that the appellant was directed by Civil Judge Lahore vide order dated 16.05.2013 to approach POI for his grievances. Learned Counsel further contended that the appellant was not involved in theft of electricity and therefore, the detection bill raised by LESCO against him was not justified. He prayed that the charging of detection bill from November 2008 to October 2009 (12 months) period at the rate of 65,453 units per month as determined by POI in the impugned decision was not justified and therefore, the appellant was not liable to pay the same.

9. In rebuttal, learned Counsel for LESCO, submitted that the meter of the appellant was found tampered during the checking by M&T LESCO on 17.11.2009 and electricity was being stolen and therefore FIR No.1216/2009 was lodged with Baghbanpura Lahore against the appellant. He contended that detection bill of Rs.10,276,432/- for 1,299,824 net units for the period from December 2007 to October 2009 was charged to the appellant to recover the revenue loss sustained due to theft of electricity during that period after completion of departmental formalities. Learned Counsel for respondent LESCO pleaded that the detection bill was raised against the appellant in pursuance of the WAPDA policy and procedures for detection bills. He stressed that exoneration of the appellant does not prevent LESCO from raising the detection bill which was in accordance with the decision of superior courts.
10. Arguments heard and record perused. It may be observed that a notice dated 29.09.2009 was issued to the appellant by LESCO for provision of self purchased meter for early replacement of the existing meter but neither demand notice was issued by LESCO for replacement of the meter nor any meter was provided by the appellant for this purpose. On 16.11.2009 the supply of the appellant was disconnected by LESCO and meter was removed but no notice was given by LESCO to the appellant. On 17.11.2009, the meter was checked by M&T LESCO and reportedly a hole was detected in the ATB as well as in the meter. The appellant was not associated in the checking. It is also a matter of record that an FIR No.1261/9 dated 17.11.2009 was lodged with police station Baghbanpura Lahore but the appellant was exonerated from criminal charges by the trial court.



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11. A detection bill of Rs.10,276,432/- for 1,299,824 net units for the period from December 2007 to October 2009 was issued to the appellant but the same was not deposited. After litigation in Civil Court, Additional District Judge and Lahore High Court an application dated 04.06.2013 was submitted by the appellant to POI against the aforementioned detection bill. The disputed meter could not be checked by POI as the same had already been removed and the meter was in the custody of police.
12. The consumption data of the disputed meter has also been examined which is reproduced as under:-

Month	Consumption KWh Unit	Month	Consumption KWh Unit	Month	Consumption KWh Unit
1/2007	32516	1/2008	49362	1/2009	563
2/2007	48424	2/2008	88937	2/2009	3473
3/2007	37560	3/2008	72386	3/2009	1264
4/2007	19140	4/2008	89564	4/2009	2602
5/2007	0	5/2008	62998	5/2009	202
6/2007	0	6/2008	84320	6/2009	329
7/2007	55276	7/2008	59637	7/2009	674
8/2007	89924	8/2008	85603	8/2009	5183
9/2007	48264	9/2008	20008	9/2009	22222
10/2007	33116	10/2008	18006	10/2009	51640
11/2007	90950	11/2008	7514		
12/2007	63662	12/2008	1869		

13. From the above table it is evident that the consumption was normal till 10/2008 and there was major reduction in the consumption from November 2008 till October 2009. It is rightly determined by POI in the impugned decision that the meter recorded correct consumption till October 2008 but it could not record the actual consumption of energy from November 2008 to October 2009. His analysis regarding the average consumption 65,453 units per month based on the consumption from November 2007 to October 2008 is justified and the appellant is liable to



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pay the detection bill at the rate of 65,453 units per month for the period from November 2008 to October 2009.

14. In view of the above discussion, it is concluded that the detection bill amounting to Rs.10,276,432/- as cost of 1,299,827 units for the period from December 2007 to October 2009 is void, unjustified and of no legal effect; therefore, the appellant is not liable to pay the same. However, the appellant is liable to pay detection bill at the rate of 65,453 units per month for the period November 2008 to October 2009.
15. As an upshot of the above discussion, it is concluded that the impugned decision of POI dated 24.12.2014 is legal, valid and justified and we do not find any reason to interfere with the same and the same is therefore upheld with the result that the appeal is dismissed.


Muhammad Qamar-uz-Zaman
Member


Muhammad Shafique
Member


Nadir Ali Khoso
Convener

Date: 18.06.2015

