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

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No. NEPRA/AB/Appeal-115/POI-2016/ 499-504 April 11, 2017

1. M/s Dawood Spinnig & Weaving Mills Ltd,
Through Muhammad Amjad Iqbal,
G. M. Finance & Commercial,
5-KM, Manga Raiwind Road,
District Kasur

2. The Chief Executive Officer
LESCO Ltd,
22-A Queens Road,
Lahore

3. Saeed Ahmed Bhatti,,
Advocate High Court,
2nd Floor, Akram Mansion,
Neela Gumbad, Lahore

4. Mian Mahmood Rashid,
Advocate Supreme Court,
Rashid Law Associates,
3rd Ajmal House,
27-Egerton Road, Lahore

5. Asif Mahmood,
Assistant Manager (Opr),
LESCO Ltd,
Indistrial Area Sub Division,
Manga Mandi, District Kasur

6. Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore

Subject: **Appeal Titled LESCO Vs. M/s Dawood Spinning & Weaving Mills Ltd Against the Decision Dated 26.05.2016 of the Electric Inspector/POI to Government of the Punjab Lahore Region, Lahore**

Please find enclosed herewith the Decision of the Appellate Board dated 07.04.2017, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above

(Ikram Shakeel)

No. NEPRA/AB/Appeal-115/POI-2016/ 505 April 11, 2017

Forwarded for information please.

Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Member (CA)

National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-115/POI-2016

Lahore Electric Supply Company Limited .....Appellant

Versus

M/s Dawood Spinning & Weaving Mills Ltd,
5-KM, Manga Raiwind Road, District Kasur .....Respondent

For the appellant:

Mr. Saeed Ahmed Bhatti Advocate
Mr. Asif Mahmood SDO

For the respondent:

Hafiz Muhammad Azhar Ali Advocate

DECISION

1. Through this decision, an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 26.05.2016 of the Provincial Office of Inspection Lahore Region, Lahore (hereinafter referred to as POI) under Section 38 (3) of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (hereinafter referred to as NEPRA Act 1997), is being disposed of.

2. As per facts of the case, the respondent is an industrial consumer of LESCO who was issued electricity bill amounting to Rs.14,027,208/- for February 2015, which was payable by 20.03.2015. The respondent approached LESCO for correction of the bill and extension of due date, which however was not done. The respondent therefore paid the bill of Rs.15,416,808/- including Late Payment Surcharge (LPS) amounting to Rs.1,389,600/- on 26.03.2015. Subsequently, the respondent agitated the matter before the POI on 31.03.2015, which was disposed of by POI vide its decision dated 26.05.2016, the operative portion of which is reproduced below:

"For the reasons what has been discussed above, it is held that the KWH total reading charged as 1324.43 x 4000 (1285.86 off peak + 38.57 peak) in the bill for 02/2015 is excessive whereas actual KWH total reading was recorded and existed on the meter on 27.02.2015 was 1271.16 (x4000) and thus the bill is incorrect: therefore, the ***LPS amount Rs. 13,89,600/-****recovered in the amount Rs. 1,54,16.808/- as bill for 02/2015 is void, unjustified and of no legal effect and the petitioner is not liable to pay the same. The respondents are directed to over-haul the account of the petitioner company and the LPS amount Rs. 13,89,600/-be refunded to the petitioner company. The respondents are further directed to place the consumer meter reading card at the connection of the petitioner company and record thereon monthly reading agreed with the representative of the petitioner company from very next month of this decision."*

3. The appeal in hand has been filed against the aforementioned decision inter-alia on the grounds that POI has decided the case after 90 days, therefore, the same is not legal in terms of section 26 (6) of Electricity Act, 1910; that the bill amounting to Rs.14,027,208/- for February 2015 was payable by 20.03.2015 but the respondent failed to do so, therefore LPS of Rs.1,389,600/- was rightly recovered from the respondent and that the impugned decision is illegal, unlawful, void ab-initio and liable to be set aside.

4. Notice of the appeal was issued to the respondent for filing reply/parawise comments, which were filed on 25.08.2016. In its reply, the respondent averred that the impugned decision was rendered by POI under NEPRA Act 1997, which does not prescribe time limit for decision. The respondent contended that the bill amounting to Rs.15,416,808/- including LPS of Rs.1,389,600/- served by LESCO was incorrect as excessive units were charged by recording the meter reading 2-3 days late instead of 27.02.2015 with malafide intention as consumer card was not maintained by LESCO. Moreover as per respondent, the due date for payment was revised to 20th instead of 24th of the month. The respondent stated that both the matters were brought into notice of LESCO but all went in vain.

5. After issuing notice, hearing of the appeal was held at Lahore Provincial office on 31.03.2017, in which both the parties entered their appearance. Mr. Saeed Ahmed

Bhatti, learned counsel for the appellant contended that the electricity bill amounting to Rs.15,416,808/- including LPS of Rs.1,389,600/-for February 2015 was issued to the respondent as per actual meter reading and no excessive units were charged to the respondent. According to learned counsel for LESCO, aforesaid bill was issued on 05.03.2015 and the due date was 20.03.2015 in accordance with the Consumer Service Manual. As regards the request for extension of time, the learned counsel pleaded that the matter was placed before BOD LESCO but it was denied. Since the respondent failed to make the payment by the due date, therefore LPS of Rs.1,389,600/- imposed and received from the respondent is legal and justified. Learned counsel further clarified that merely a request by the respondent for extension of date does not create a legal right for the respondent. On the contrary, the learned counsel for the respondent contended that it has been established that the meter reading date as per bill for February 2015 was 27.02.2015 but consumption charged in the bill was as per meter reading on 04.03.2015. Since excessive billing was made therefore a timely request was made to LESCO for correction of bill and time extension but unfortunately the responsible officers of LESCO kept them in waiting and refused the same on 24.03.2015 when the dead line for payment had already expired and LPS became due. As per version of the respondent, he was penalized for no fault on his part. The counsel for the respondent further informed that it was a routine that the application for the extension of time of payment presented to the

LESCO Authority every month was accepted and the extension was granted by LESCO. The learned counsel for the respondent defended the impugned decision, which according to him was with facts and law and liable to be maintained.

6. We have heard the arguments of both the parties and examined the record placed before us. As regards objection of LESCO that the impugned decision given after statuary period of 90 days under Section 26(6) of Electricity Act 1910 is not valid for the reason that the impugned decision was rendered by the POI and not by Electric Inspector under Electricity Act, 1910. The time period may be relevant for Electric Inspectors but the same is not applicable for POIs. As regards merit of the case, it is an admitted position that the meter reading date printed on the bill was 27.02.2015 but in fact the reading of 04.03.2015 was incorporated in the bill for February 2015 due to which more units were added in the bill. A request for the correction of bill and extension of date was made in time by the respondent, which was not decided by LESCO before the due date for payment i.e.20.03.2015. Denial of the request was conveyed to the respondent on 24.03.2015 after the expiry of due date, which made the respondent liable to pay LPS of Rs.1,389,600/-. Request for extension of date in routine were accepted, a fact which is not denied by LESCO. Further that the respondent had legitimate expectancy that due date would be extended and he will be able to make payment of electricity bill for February 2015 without LPS as usual.

Payment of the bill along with LPS for February 2015 on 26.03.2015 indicates that the respondent was inclined to make the payment by due date but waited for the decision of LESCO regarding extension. Moreover the mistake regarding excessive consumption was not rectified by LESCO, as such the respondent is not liable to make payment of LPS of Rs.1,389,600/-. We are inclined to agree with the contention of the respondent that the bill was not correct as such LPS is not justified. We are in agreement with the version of the respondent that the impugned decision given by POI is in accordance with facts and law and should be maintained.

7. In view what has been stated above, we do not find any reason to interfere with the impugned decision, which is upheld and consequently the appeal is dismissed.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 07.04.2017