



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

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No. NEPRA/AB/Appeal/093/2019/ *798-803*

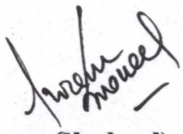
September 23, 2020

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| 1. Muhammad Kashif Chaudhary,
S/o. Muhammad Aslam Chaudhary,
R/o. Makkah Apartment, Bukhari Street,
Wahdat Road, Muslim Town,
Lahore | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. A. D. Bhatti,
Advocate High Court,
Office No. 4, Rehmat Towers,
13-Fane Road, Lahore | 4. Inam ul Haq Pasha,
Advocate High Court,
Suit No. 56, Second Floor,
Hajvery Complex, 2-Mozang Road,
Lahore |
| 5. Assistant Manager (Opr),
LESCO Ltd,
Rehman Pura Sub Division,
Lahore | 6. Electric Inspector/POI
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank,
Dharampura, Lahore |

Subject: **Appeal Titled Muhammad Kashif Chaudhary Vs. LESCO Against the Decision Dated 29.01.2019 of the Provincial Office of Inspection to Government of the Punjab Lahore Region, Lahore**

Please find enclosed herewith the decision of the Appellate Board dated 22.09.2020, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)
Assistant Director
Appellate Board

Forwarded for information please.

1. Director (IT) –for uploading the decision on NEPRA website



National Electric Power Regulatory Authority

Before Appellate Board, National Electric Power Regulatory Authority, Islamabad

In the matter of

Appeal No.093/2019

Muhammad Kashif Chaudhary S/o Muhammad Aslam Chaudhary
R/o Makka Apartment, Bukhari Street Wahdat Road,
Muslim Town, Lahore

.....Appellant

Versus

Lahore Electric Supply Company Limited

.....Respondent

APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 AGAINST THE DECISION DATED 29.01.2019 PASSED BY PROVINCIAL OFFICE OF INSPECTION LAHORE REGION, LAHORE

For the appellant:

Mr. A.D. Bhatti Advocate

For the respondent:

Mr. Inam ul Haq Pasha Advocate

DECISION

1. As per facts of the case, the appellant is a commercial consumer of Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) bearing Ref No.14-11152-0005410-U with a sanctioned load of 24 kW under the A-1(a) tariff.

The premises of the appellant was checked by LESCO on 21.11.2017, wherein 11 out of 21 billing meters were found defective with erratic behavior and the difference of readings was noticed between the 21 billing meters and the main backup meter. LESCO served a notice dated 30.11.2017 to the appellant regarding the difference of 60,358 units observed between the 21 billing meters and the main backup meter.

Resultantly, a detection bill of Rs.1,410,488/- for 60,358 units was debited to the

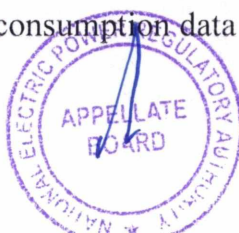




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appellant and added in the billing month for December 2017. During another checking by Metering and Testing (M&T) LESCO dated 29.01.2018, 11 billing meters were found with erratic status, therefore 11 check meters were installed in series with these defective billing meters of the appellant on the recommendation of M&T LESCO.

2. Being aggrieved, the appellant approached the Provincial Office of Inspection (POI) on 07.08.2018 and assailed the detection bill of Rs.1,410,488/- charged in December 2017. The joint inspection of the metering equipment of the appellant was conducted by POI on 18.10.2018 wherein (i) the main backup meter was found within BSS limits, (ii) 11 billing meters showed erratic behavior, and (iii) 11 check meters were found within BSS limits. Hence LESCO converted the 11 check meters as billing meters of the appellant. The complaint of the appellant was disposed of by POI vide its decision dated 29.01.2019 in which the detection bill of Rs.1,410,488/- for 60,358 units charged to the appellant on account of the difference of readings between the 21 billing meters and the main backup meter was declared as justified and payable by the appellant. However, the late payment surcharges (LPS) imposed against the said detection bill were withdrawn.
3. The appeal in hand has been filed against the above referred decision inter-alia on the grounds that the POI ignored the procedure as laid down in clause 4.4 of the Consumer Service Manual (CSM); that allows charging of the detection bill maximum for two billing cycle in case of a defective meter; that the POI erroneously declared the detection bill charged on the difference of alleged readings; that the POI neither discussed the consumption data nor has given the details thereof in the





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impugned decision and relied upon the alleged unilateral checking of LESCO dated 21.11.2017; that the impugned decision is non-speaking, without detail and is violative of clause 24-A of the General clauses Act and that the impugned decision is illegal, void and without jurisdiction.

4. Notice of the appeal was served upon the respondent-LESCO for filing reply/para-wise comments, which were filed on 24.09.2019. In its reply, LESCO rebutted the stance of the appellant and contended that a difference of 60,358 units was observed between the 21 billing meters and the main backup meter during checking dated 21.11.2017. LESCO further contended that notice dated 30.11.2017 regarding the said discrepancy and another notice dated 23.01.2018 for the disconnection of supply was served to the appellant. As per LESCO, the erratic behavior of the 11 billing meters of the appellant was confirmed during subsequent M&T LESCO checking dated 29.01.2018 and POI joint checking dated 18.10.2018, as such the detection bill of Rs.1,410,488/- for the cost of 60,358 units charged due to the difference of readings between the 21 billing meters and the main backup meter is recoverable from the appellant.
5. After issuing notices to the parties, the hearing of the appeal was conducted at NEPRA's Regional Office at Lahore on 21.08.2020 which was attended by both the parties. Learned counsel for the appellant reiterated the same arguments as described in the memo of the appeal and explained that the detection bill of Rs.1,410,488/- for 60,358 units was charged by LESCO in December 2017 against which partial payments were made to avoid the disconnection of supply. Learned counsel for the appellant stated that LESCO neither provided any evidence regarding the erratic



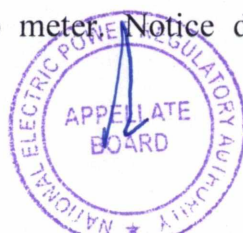


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behavior of billing meters nor followed the provisions of CSM in case of defective billing meters. As per learned counsel for the appellant, no period of the detection bill of Rs.1,410,488/- is specified, hence the impugned decision in this regard is liable to be set aside. On the contrary, learned counsel for LESCO rebutted the stance of learned counsel for the appellant and submitted that the detection bill in dispute was charged to the appellant to account for the difference of 60,358 units between the 21 billing meters and the main backup meter. Learned counsel for LESCO further submitted that 11 billing meters of the appellant recorded less consumption as compared to the main backup meter due to erratic behavior, which was also witnessed by POI during joint checking dated 18.10.2018. Learned counsel for LESCO supported the impugned decision for declaring the disputed detection bill as justified and prayed for upholding the same.

6. Arguments heard and the record examined. It is observed as under:

- i. LESCO sanctioned commercial connection for the plaza of the appellant in the year 2008 and supplied electricity to the appellant through the twenty one billing meters and one main backup meter. Accuracy of the main backup meter was checked by LESCO on 17.08.2009 and 31.03.2010, wherein reportedly it was found working within BSS limits. Billing of the appellant was continued by LESCO on the 21 billing meters since the date of installation of connection. Subsequently, metering equipment of the appellant was checked by LESCO on 21.11.2017, wherein 11 billing meters were found showing erratic behavior and the difference of 60,358 units was noticed between the 21 billing meters and the main backup meter. Notice dated 30.11.2017 was served to the





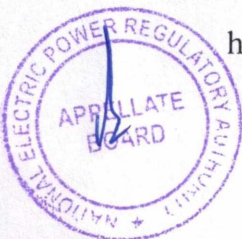
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appellant and a detection bill of Rs.1,410,488/- for 60,358 units was issued to the appellant on account of the difference of units between the 21 billing meters and the main backup meter and added in the billing month of December 2017, which was assailed before POI on 07.08.2018. During joint checking dated 18.10.2018 of POI, erratic status of 11 billing meters was confirmed, whereas the main backup meter and 11 check meters were found working within BSS limits, hence only the period of defectiveness needs to be determined.

- ii. LESCO charged the detection bill of 60,348 units being the difference of consumption recorded between the 21 billing and the main backup meter as noticed on 21.11.2017, detail of which is given below:

LESCO date of checking: 21.11.2017			
(A)	Reading	MF	Total units
Main backup meter	293,740	2	587,480
(B)			
21 Nos. billing meters	-	-	527,122
(C)			
The difference of units (A)-(B)			603,58

The above table manifests that the detection bill was charged by LESCO to the appellant due to the difference of consumption between the main backup meter and 21 billing meters since the date of installation of backup meter i.e.16.06.2008 to the LESCO checking dated 21.11.2017 (almost 9.5 years). During this period, LESCO has taken monthly readings of the 21 billing meters and issued the monthly bills to the appellant as per the actual reading of these meters but no discrepancy whatsoever was pointed out by the meter reading staff. Hence, the appellant cannot be penalized by imposing such a huge difference in consumption due to the gross negligence on the part of





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LESCO.

- iii. Even otherwise, the claim of LESCO for 60,358 pending units on a meter installed for more than nine years i.e. June 2008 to November 2017 is inconsistent with Article 181 of Limitation Act, 1908, which restricts the period of claim for three years only. In this regard, reliance is placed on the Lahore High Court, judgment dated 30.11.2015 in respect of writ petition No.17314-2015 titled “Muhammad Hanif v/s NEPRA and others”, wherein it is held as under:

“The petitioner at the most can invoke Article 181 of The Limitation Act, 1908 which is the residuary provision and caters the issue of limitation where no period of limitation is provided elsewhere in the Schedule of The Limitation Act, 1908 or under Section 48 of The Code of Civil Procedure (V of 1908). Article 181 of The Limitation Act, 1908 prescribes three years for filing an application that applies when the right to apply accrues as prescribed in Article 181 of Limitation Act, 1908.”

In consideration of the above facts, the detection bill of Rs.1,410,488/- for 60,358 units debited to the appellant on account of the difference of units between the 21 billing meters and the main backup meter along with LPS is unjustified and not payable by the appellant.

Since the difference of consumption between the 21 billing meters and the main backup meter was noticed by LESCO in November 2017, as such LESCO may recover the difference bill for the last three years i.e. December 2014 to November 2017 as per Article 181 of Limitation Act, 1908. Calculation in this regard is given below:





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Period: December 2014 to November 2017 (3 years)

- **Units to be charged** = $\frac{\text{Difference of units charged} \times \text{No. of years allowed}}{\text{No. of disputed years}}$
- **Units to be charged** = $\frac{60,358 \times 3}{9.5} = 19,060 \text{ units}$

Hence the detection bill for 19,060 units may be recovered from the appellant.

The impugned decision is liable to be modified to this extent.

7. In view of what has been stated above, the appeal is partly accepted with the conclusion that the detection bill of Rs.1,410,488/- for 60,358 units debited to the appellant on account of the difference of units between the 21 billing meters and the main backup meter along with LPS is unjustified and is hereby cancelled. The appellant may be charged 19,060 units as detection bill, which may be recovered by LESCO in twelve equal installments along with the current monthly bill.

Muhammad Qamar-uz-Zaman
Member

Muhammad Shafique
Member

Nadir Ali Khoso
Convener

Dated: 22.09.2020

