



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

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No. NEPRA/AB/Appeal/043/POI/2018/ 230

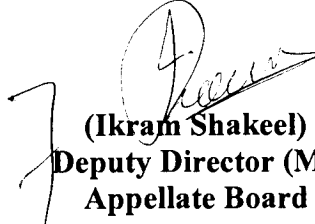
March 19, 2021

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|---|--|
| 1. Habib Bank Ltd
Baghbanpura Branch,
G. T. Road, Baghbanpura,
Lahore | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Ms. Shazia Malik
Advocate High Court,
Immam Law Firm, 6-Lawyer Park,
Opp: Best Western Hotel,
13-Fane Road, Lahore | 4. Zishan Ali Syed
Advocate High Court,
Hyat & Meerjees, Third Floor,
Asif Plaza, Fazal-e-haq Road,
Blue Road, Islamabad |
| 5. Assistant Manager (Opr),
LESCO Ltd,
Baghbanpura Sub Division,
Lahore | 6. POI/Electric Inspector
Lahore Region, Energy Department,
Govt. of Punjab, Block No. 1,
Irrigation Complex, Canal Bank, Dharampura,
Lahore |

Subject: **Appeal Titled LESCO Vs. Habib Bank Limited Against the Decision Dated 29.12.2017 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 15.03.2021, regarding the subject matter, for information and necessary action accordingly.

Encl: As Above


(Ikram Shakeel)
Deputy Director (M&E)
Appellate Board

Forwarded for information please.

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



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 043/POI-2018

Lahore Electric Supply Company Limited

.....Appellant

Versus

Habib Bank Limited, Baghbanpura Branch,
G.T. Road, Baghbanpura, Lahore

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 29.12.2017 PASSED BY PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the appellant:

Ms. Shazia Malik advocate
Mr. Taimoor SDO

For the respondent:

Mr. Zeeshan Ali Syed

DECISION

1. Through this decision an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 29.12.2017 of the Provincial Office of Inspection, Lahore Region, Lahore (hereinafter referred to as POI) is being disposed of.
2. Brief facts of the case are that the respondent is a domestic consumer of LESCO bearing Ref No.05-11354-0349300-U with a sanctioned load of 2 kW and the applicable tariff is A-2(a). The billing meter of the respondent became defective (burnt) on 20.05.2016,



National Electric Power Regulatory Authority

which was replaced with a new meter by LESCO on 23.05.2016. LESCO charged average bills for the period from June 2016 and onwards till feeding the meter change order (MCO) in October 2016. Later on, LESCO issued the bills of Rs.452,938/- for 18,571 units and Rs.555,207/- to the respondent in November 2016 and December 2016 respectively.

3. Being aggrieved, the respondent filed an application before POI and challenged the bills for the months of November 2016 and December 2016. POI pronounced its decision on 29.12.2017, the operative portion of the decision is reproduced below:

"Summing up the aforesaid discussion, it is held that I. the impugned bill for the month of June 2016 for 4359 units charged to the petitioner on the basis of units recorded during the corresponding month of the previous year is justified, legal and the petitioner is liable to pay the same. II. That the impugned monthly bills from 07/2016 to 10/2016 charged on an average basis as well as the impugned bill for the month of 11/2016 for 18,571 units amounting to Rs.452,938/- are void, unjustified and of no legal effect; therefore the petitioner is not liable to pay the same. However, the respondents are allowed to charge revised monthly bills from 07/2016 to 11/2016 for a total of 21,256 units (as per detail mentioned in para 3 above) after segregating the same into five months. III. That the respondents are directed to overhaul the account of the petitioner accordingly and any excess amount recovered be adjusted in future bills."

4. Being dissatisfied with the POI decision dated 29.12.2017 (hereinafter referred to as the impugned decision), LESCO has filed the instant appeal before NEPRA. In its appeal, LESCO inter alia contended that the dispute relates to the supply of energy to the meter as such no notice was served by the respondent before filing the application to POI. LESCO further contended that POI did not apply his legal mind and matter decree against LESCO. As per LESCO, a new meter was installed in October 2016 instead of 23.05.2016 due to the shortage of three-phase meters, and 18,571 units were charged for the period June 2016



National Electric Power Regulatory Authority

to October 2016. According to LESCO, the respondent admitted the use of electricity directly from the mainline and agreed to pay the double units charged for the disputed period, hence FIR was not registered against him. LESCO submitted that the bills for November 2016 and December 2016 are justified and the respondent is bound to pay the above bills. LESCO further submitted that the impugned decision is against the facts and law of the case and the matter be decided by the Civil Court. Finally, LESCO prayed that the impugned decision be set aside in the interest of justice and equity.

5. Notice for filing reply/para-wise comments to the appeal was issued to the respondent, which were filed on 20.11.2018. In the reply, the respondent prayed for dismissal of the appeal on the grounds that the appeal is time-barred; that the burnt meter was replaced with a new meter on 23.05.2016 and the bills for a total of 18,396 units for the period June 2016 to October 2016 were charged by LESCO; that the bills for the months November 2016 and December 2016 were illegally debited by LESCO; that if the respondent was using electricity as to why LESCO did not lodge FIR against the respondent; that LESCO failed to point out any misreading of the record or any other material discrepancy in the impugned decision; that the matter was adjudicated before the appropriate forum as provided in law and that the appeal may be dismissed with cost.
6. After issuing notice, LESCO was heard in NEPRA Regional Office Lahore on 13.09.2019 in which learned counsel for LESCO reiterated the arguments same as given in memo of the appeal and contended that the billing meter burnt on 20.05.2016, which was replaced with a new meter by LESCO vide MCO in October 2016. Learned counsel for LESCO

1



National Electric Power Regulatory Authority

further contended that nil consumption was charged in October 2016, hence the bills for November 2016 and December 2016 are justified and payable by the respondent. Subsequently, notice was issued to the respondent and hearing of the appeal was conducted in NEPRA Head Office on 09.03.2021 in which learned counsel appearing for the respondent argued that the appeal is time-barred and liable to be dismissed. Learned counsel for the respondent averred that the defective meter was replaced with a new meter by LESCO on 23.05.2016 and the average bills were charged for the period June 2016 to October 2016 for total of 18,396 units. As per learned counsel for the respondent, LESCO charged twice for the same period in terms of average billing and the detection bills for November 2016 and December 2016, which is illegal, unjustified, and rightly set aside by POI. Learned counsel for the respondent finally prayed for the maintainability of the impugned decision and dismissal of the appeal.

7. Having heard the arguments and the record perused, following are our observations:

- i. There is no force in the objection of LESCO regarding the jurisdiction of POI as the dispute pertains to the billing, as such the POI is authorized to decide the fate of disputes of such nature in pursuance of Section 38 of NEPRA Act, 1997.
- ii. Regarding the preliminary objection of the respondent for limitation, it is observed that the impugned decision was pronounced by POI on 29.12.2017, a copy of the same was obtained by LESCO on 17.01.2018 and the appeal was filed before NEPRA on 06.02.2018 within 30 days of receipt of the impugned decision as laid down in Section 38(3) of NEPRA Act, 1997. The objection of the respondent in this regard carries no



National Electric Power Regulatory Authority

weight and is rejected.

- iii. The billing meter of the respondent became defective on 20.05.2016, which was replaced with a new meter by LESCO. Subsequently, LESCO issued the bills of Rs.452,938/- for 18,571 units and Rs.555,207/- in November 2016 and December 2016 respectively, which were assailed by the respondent before POI.
- iv. LESCO was of the view that the new meter was installed in October 2016 and the bill of November 2016 was charged for the cost of 18,571 units being the difference of initial reading of 4,865 and the final reading 23,436. On the other hand, the respondent took the stance that the average bills for a total of 18,396 units for the period June 2016 to October 2016 were already charged by LESCO and no further bills are chargeable for the same period. It is observed that the dispute pertains to the billing for the period June 2016 to December 2016. To check the justification of billing for the above period and contention of both the parties, following consumption data may be scrutinized:

Month	Units	Remarks
Jun-16	4359	As per reading of June 2015
Jul-16	4865	As per reading of July 2015
Aug-16	4059	As per reading of August 2015
Sep-16	5113	As per reading of September 2015
Oct-16	0	Nil consumption charged
Nov-16	18571	As per reading index of the new meter
Dec-16	2523	Actual reading of the new meter

It is noticed that the meter became defective on 20.05.2016 and the bill of June 2016 was charged based on the consumption of June 2015. Similarly the bill of December 2016 was charged as per actual consumption recorded by the new meter.

1



National Electric Power Regulatory Authority

The above bills for June 2016 and December 2016 are legal, valid, justified, and payable by the respondent. However, the bills for the period July 2016 to September 2016 were initially charged on the corresponding consumption of the year 2015 and subsequently, 18,571 accumulated units were debited by LESCO for the same period in November 2016. This indicates that the respondent was charged twice for the same cause of action by LESCO, therefore the average bills for the period July 2016 to November 2016 are unjustified and liable to be declared as null & void.

- v. It would be judicious to revise the bills for the period July 2016 to November 2016 as per the reading index of the new meter i.e. 23,436 and the accumulated 23,436 units be segregated equally into five months as per clause 6.2(b) of the Consumer Service Manual (CSM) and the respondent is liable to be charged the bills for the said period @ 4,714 units/month. The impugned decision is liable to be modified to this extent.

8. Upshot of the above discussion is that:

- i. the average bills for the period July 2016 to November 2016 are unjustified and should be withdrawn as already decided by POI.
- ii. The respondent should pay the bills as per the detail given below:

Month	Units	Remarks
Jun-16	4359	As per reading of June 2015
Jul-16	4,714	As per reading of new meter i.e. 23,436 index till November 2016
Aug-16	4,714	
Sep-16	4,714	
Oct-16	4,714	
Nov-16	4,714	



National Electric Power Regulatory Authority

Dec-16	2523	The actual reading of the new meter in December 2016
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iii. The billing account of the respondent should be revised accordingly after making adjustments to the payments made (if any) against the above bills.

9. The impugned decision is modified in the above terms.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Dated: 15.03.2021