



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

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No. NEPRA/AB/Appeal/150/POI/2017/ 242


April 06, 2021

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| 1. Rasheed Ahmed
S/o. Haji Taj Din,
Ittefaq Ice Factory,
Main Ferozpur Road,
Mulstafabad (Lulyani),
Tehsil & District Kasur | 2. Chief Executive Officer
LESCO Ltd,
22-A, Queens Road,
Lahore |
| 3. Syed Mumtaz Ali Shah Hamdani
Advocate Supreme Court,
LG-2, Al-Murtaza Centre,
2-Mozang Road, Lahore | 4. Muhammad Younas Chaudhary,
Advocate High Court,
Chaudhary Law Associates,
4-Begum Road, Lahore |
| 5. Sub Divisional Officer (Opr),
LESCO Ltd,
Lulyani Sub Division,
Ferozpur Road, Mustafa Abad,
Kasur | 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. Rasheed Ahmed Against the Decision Dated 30.05.2017 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 31.03.2021, 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.

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



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. 150/POI-2017

Lahore Electric Supply Company Limited

.....Appellant

Versus

Rasheed Ahmed S/o Haji Taj Din, Ittefaq Ice Factory, Main Ferozpur
Road, Mustafa Abad (Lulyani), Tehsil & District Kasur

.....Respondent

**APPEAL UNDER SECTION 38(3) OF REGULATION OF GENERATION,
TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997
AGAINST THE DECISION DATED 30.05.2017 PASSED BY PROVINCIAL
OFFICE OF INSPECTION LAHORE REGION, LAHORE**

For the appellant:

S. Mumtaz Ali Shah Advocate
Mr. Nabeel Ahmed SDO

For the respondent:

Mr. Yaseen Advocate
Mr. Rasheed Ahmed

DECISION

1. Through this decision an appeal filed by Lahore Electric Supply Company Limited (hereinafter referred to as LESCO) against the decision dated 30.05.2017 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 an industrial consumer (Ice factory) of LESCO bearing Ref No.24-11714-3439400-R with a sanctioned load of 30 kW and the applicable tariff is B-2(b). Premises of the respondent was checked by metering & testing

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(M&T) LESCO on 13.05.2014 and reportedly the respondent was found involved in the theft of electricity through tampering (remote control device installed inside the meter) the billing meter. Notice dated 13.05.2014 was served to the respondent for theft of electricity and metering equipment along with transformer was removed from the premises of the respondent. Thereafter removed meter was handed over to Police and FIR No.257/14 dated 14.05.2014 was registered against the son of the respondent with the Police. LESCO debited a detection bill of Rs.1,332,521/- for 76,832 units for the period July 2013 to April 2014 (10 months) to the respondent and added in the bill for May 2014 against which the respondent deposited an amount of Rs.444,173/- being 1/3rd of the above detection bill.

3. Being dissatisfied, the respondent approached the POI and assailed the abovementioned detection bill. POI pronounced its decision on 30.05.2017 wherein the detection bill of Rs.1,332,521/- for 76,832 units for the period July 2013 to April 2014 was declared as null & void and not payable by the respondent.
4. The appeal in hand has been filed against the POI decision dated 30.05.2017 (hereinafter referred to as the impugned decision) by LESCO before NEPRA. In its appeal, LESCO inter alia contended that the respondent was involved in the dishonest abstraction of electricity through using the special device during checking dated 13.05.2014 for which FIR No.257/14 dated 14.05.2014 was registered against him and a detection bill of Rs.1,332,521/- for 76,832 units for the period July 2013 to April 2014 was charged to the respondent. LESCO further contended that POI without considering the relevant provision



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of law and facts of the case passed the impugned decision. As per LESCO, the respondent requested LESCO for settlement of the dispute through submission of affidavit/undertaking, hence he is not competent to avail the remedy before any forum including POI. According to LESCO, POI has no jurisdiction to interfere in the proceeding pending before LESCO for settlement of the disputed bill, hence the impugned decision is illegal, null and void. LESCO submitted that the disputed meter was under the custody of the Police and the criminal proceedings were initiated u/s 173 of Criminal Procedure, hence the checking of POI in the police station without producing the disputed meter before the Magistrate is illegal, null and void. LESCO further submitted that POI badly failed to observe the legal procedure for the decision of the case on merit and decide the case on technical grounds. Finally, LESCO prayed that the impugned decision be set aside.

5. Notice was served to the respondent for filing the reply/para-wise comments to the appeal, which were filed on 21.11.2017. In his reply, the respondent supported the impugned decision on the grounds that LESCO failed to fulfill the requirements for the memorandum of appeal and to point any illegality in the impugned decision; that the appeal is timed barred and LESCO failed to justify any sufficient reason for the condonation of delay; that LESCO disconnected power supply without issuing prior notice and removed meter was handed over to Police and FIR was lodged against his son; that his son approached SDO LESCO for restoration of electric supply of the premises on 14.05.2014, who took undertaking for issuance of detection bill for one month; that LESCO subsequently debited a huge detection bill of Rs.1,332,521/- for 76,832 units for the period July 2013 to April



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2014; that payment of Rs.444,173/- against the above detection bill was made by him with the assurance; that neither he was involved in stealing of energy nor any device was found in the billing meter; that the POI gave self-contained and comprehensive decision after considering the pros and cons of the matter; that he was acquitted from the false case by the learned Special Magistrate, Kasur vide Order dated 27.02.2017; that POI has rightly analyzed the consumption data of the disputed period with the corresponding consumption of the previous year and declared the aforesaid detection bill as illegal; and that the appeal may be dismissed with special costs.

6. Notice was issued to both the parties and the appeal was heard in NEPRA Regional Office Lahore on 11.03.2021 in which learned counsel along with SDO LESCO appeared for the appellant and the respondent along with a counsel was present. Regarding the point of limitation raised by the respondent, learned counsel for LESCO argued that a copy of the impugned decision was obtained by LESCO on 29.08.2017 and the appeal was filed before NEPRA on 06.09.2017 within 30 days of receipt of the impugned decision as per Section 38(3) of the NEPRA Act 1997. Learned counsel for LESCO stated that the detection bill of Rs.1,332,521/- for 76,832 units for the period July 2013 to April 2014 was debited to the respondent on account of theft of electricity as observed during checking dated 13.05.2014. Learned counsel for LESCO averred that FIR was registered against the respondent and he admitted theft of electricity through the submission of the undertaking, hence the respondent was estopped by his words and conduct to file the petition as it hits Article 33 of Qanoon-e-Shahadat Order 1984. As per learned counsel for LESCO, the



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impugned decision for declaring the above detection bill as illegal is incorrect and liable to be set aside. On the contrary, learned counsel for the respondent repudiated the version of learned counsel for LESCO regarding the theft of electricity and averred that the disputed meter was deliberately changed by LESCO in the police station. Learned counsel for the respondent argued that the detection bill of Rs.1,332,521/- for 76,832 units for the period July 2013 to April 2014 was debited in violation of provisions of the Consumer Service Manual (CSM). Learned counsel for the respondent supported the impugned decision and prayed for upholding the same.

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

- i. LESCO raised the preliminary objection that the dispute of theft of electricity be dealt with as per criminal procedure and POI has no jurisdiction to adjudicate the instant matter. It is noted that the dispute pertains to the billing due to a tampered meter and the POI is empowered to entertain such disputes according to Section 38 of the NEPRA Act, 1997. Moreover, the honorable Supreme Court of Pakistan vide judgment reported in PLD 2012 SC 371 authorized POI to adjudicate the disputes of such nature, the operative portion of which is reproduced below:

“---Ss. 26(6) & 26-A---Detection bill, issuance of---Theft of energy by the consumer, charge of--- Jurisdiction of Electric Inspector and Advisory Board---Scope---Electric Inspector for possessing special expertise in examining the working of metering equipment and other related apparatus had jurisdiction to entertain reference under S.26(6) of Electricity Act, 1910 only in case of dishonest consumption of energy by the consumer through deliberate manipulation of or tampering with

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metering equipment or other similar apparatus---Electric Inspector would have no jurisdiction in the matter of theft by means other than tampering or manipulation of metering equipment, etc."

In view of the above, the objection of LESCO is incorrect and overruled.

- ii. The claim of LESCO that after the partial payment of the detection bill amounting to Rs.1,332,521/-, the respondent is estopped for agitating the same before POI is not convincing as the Qanoon-e-Shahadat Order 1984 is not applicable stricto-senso in the present case.
- iii. Regarding the point of limitation raised by the respondent, it is noticed that copy of the impugned decision dated 30.05.2017 was obtained by LESCO on 29.08.2017 and the appeal was submitted before NEPRA on 06.09.2017 within 30 days of the receipt of the impugned decision. Obviously, the appeal is filed within the prescribed time limit as given in Section 38(3) of the NEPRA Act, 1997. The objection of the respondent in this regard is devoid of force and rejected.
- iv. LESCO charged a detection bill of Rs.1,332,521/- for 76,832 units for the period July 2013 to April 2014 (10 months) to the respondent due to theft of electricity through tampering with the billing meter as observed during checking dated 30.05.2017. However, LESCO neither observed such discrepancy of illegal abstraction of electricity during monthly readings nor produced the disputed meter before the POI for checking. Besides, the above detection bill was debited to the respondent for a period of 10 months in case of theft of electricity, which is

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inconsistent with the procedure as laid down in chapter 9 of CSM. Under these circumstances, we are in agreement with the determination of POI that the detection bill of Rs.1,332,521/- for 76,832 units for the period July 2013 to April 2014 charged to the respondent is unjustified and liable to be declared as null and void.

- v. Since the theft of electricity was observed by LESCO on 13.05.2014, as such the respondent may be charged the detection bill maximum for six months i.e. November 2013 to April 2014, pursuant to clause 9.1c(3) of CSM. However, the consumption during these disputed months need to be verified through the comparison with the consumption of corresponding months of previous years in the below table:

Undisputed period		Undisputed period		Disputed period	
Month	Units	Month	Units	Month	Units
Nov-11	2,570	Nov-12	1,435	Nov-13	1,198
Dec-11	2,412	Dec-12	300	Dec-13	1,020
Jan-12	2,401	Jan-13	298	Jan-14	1,030
Feb-12	6,886	Feb-13	553	Feb-14	1,100
Mar-12	2,499	Mar-13	464	Mar-14	2,499
Apr-12	5,270	Apr-13	736	Apr-14	6,026
Total	22,038	Total	3,786	Total	12,873

The above table shows that total consumption recorded during the disputed period November 2013 to April 2014 is much higher than the total consumption of the undisputed period November 2012 to April 2013, however much lesser than the total consumption of undisputed period November 2011 to April 2012. Hence it would be judicious to charge the detection bill for 22,038 units for the disputed period November 2013 to April 2014 as per consumption of the undisputed period



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November 2011 to April 2012. Calculation in this regard is done below:

Period: November 2013 to April 2014

- A- Total units to be charged = 22,038 units
- B- Total units already charged = 12,873 units
- C- Net chargeable units = (B)-(A) = 22,038 – 12,873 = **9,165 units**

8. Upshot of the above discussion is that the impugned decision for declaring the detection bill of Rs.1,332,521/- for 76,832 units for the period July 2013 to April 2014 as null & void is correct. The respondent should pay the detection bill for net 9,165 units for the period November 2013 to April 2014. The billing account of the respondent should be revised accordingly and payments made (if any) against the above detection bill may be adjusted in future bills.

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

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Date: 31.03.2021